



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

IX
HARVARD LAW LIBRARY



3 2044 032 366 551





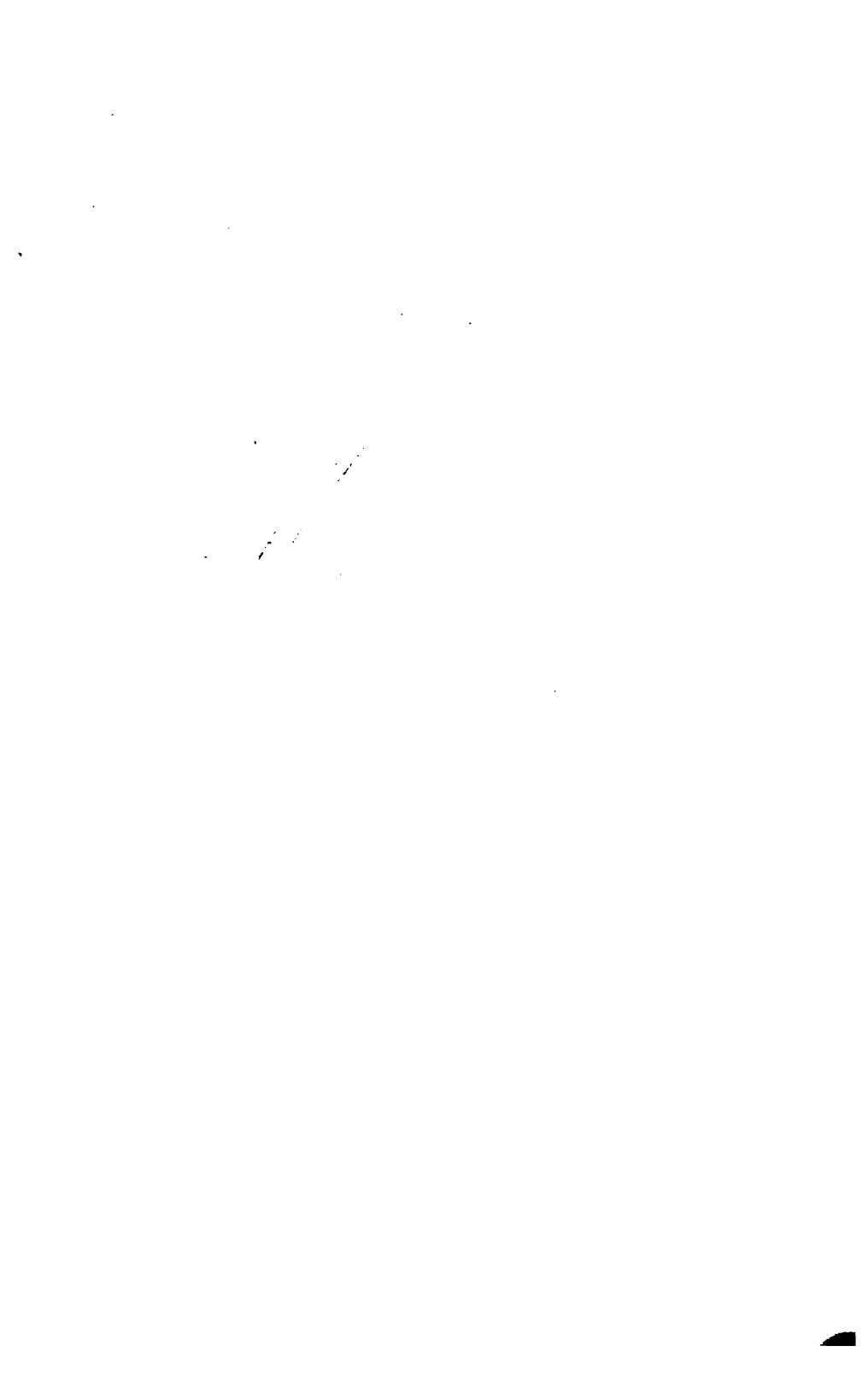
HARVARD LAW LIBRARY.

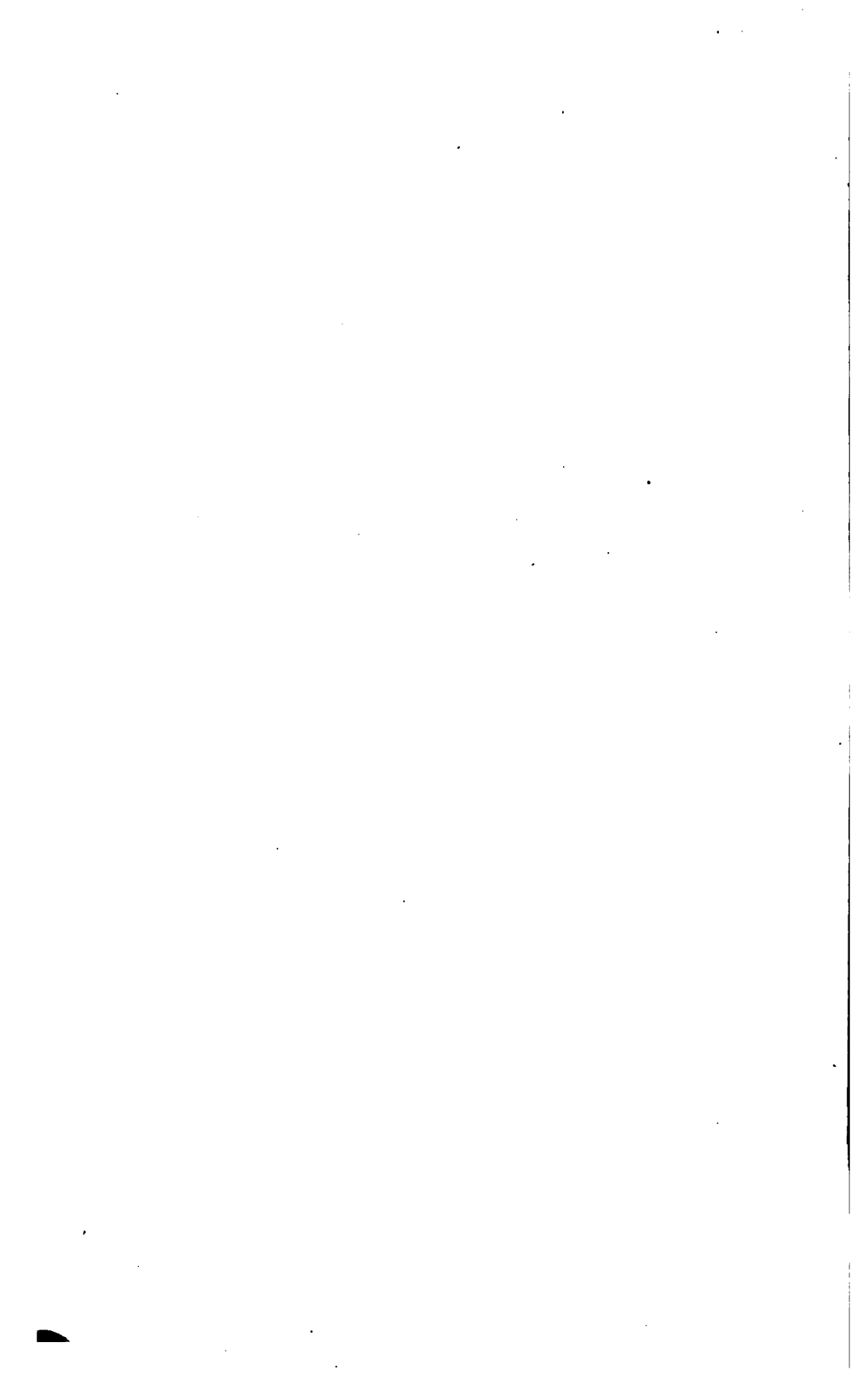
Received

Sept. 30, 1905









LUNACY PRACTICE. ^{c#}

BY

N. ARTHUR HEYWOOD,
AND
ARNOLD S. MASSEY, M.A.,
OF ORIEL COLLEGE, OXFORD,
SOLICITORS.

SECOND EDITION

BY

THE AUTHORS,
WITH THE ASSISTANCE OF
CHARLES GARNETT, M.A., LL.M.,
of Lincoln's Inn, Barrister-at-Law.

LONDON:
STEVENS AND SONS, LIMITED,
119 & 120, CHANCERY LANE,
Law Publishers.
1905.

Σ
138
295

TX
H6222
Ed 2

Recd Sept, 30, 1905,

PREFACE

TO THE SECOND EDITION.

THAT their book on Lunacy Practice should have been exhausted in five years' time is some indication that the Authors' hopes have been realised, and that their little text-book has supplied a want.

In the new Edition separate chapters have been added on Powers of Attorney, Reception Orders, and Conveyancing Forms. Various additional precedents used by the Authors have also been included, and the pages dealing with Vesting Orders have, consequent on the alteration in practice occasioned by the Rule dated the 29th October, 1900, been re-written. This book is believed to be the only one now published which contains any precedents of summonses for Vesting Orders.

The main difference, however, between the Second Edition and its predecessor is to be found

in Appendix A. The Authors have, with the assistance of Mr. CHARLES GARNETT (of the Chancery Bar), annotated the Lunacy Rules in a manner closely following on that adopted in the Annual Practice. This is the first occasion that any attempt has been made to note up the Lunacy Rules, and it is hoped that the new departure will prove of service to solicitors and others.

Every effort has been made to keep the book a thoroughly practical one, and to prevent its compass being unduly enlarged. The question of size is the sole reason which has decided the Authors to omit the text of the Lunacy Act, 1890.

N. ARTHUR HEYWOOD.

ARNOLD S. MASSEY.

10, NORFOLK STREET, STRAND, W.C.

March, 1905.

PREFACE

TO THE FIRST EDITION.

THE fact, evidenced by statistics as well as by the vast asylums erected throughout the country, that the number of persons mentally afflicted is increasing leads to the inevitable conclusion that a knowledge of the Practice in Lunacy must be of increasing importance to Solicitors. They must frequently be consulted by relatives and friends of Patients as to what steps ought to be taken for the safety of the Patient's person and for the protection and administration of his estate. In some instances all that may be required is to provide for some temporary mental derangement, while in others (incurable cases) permanent provision must be made for the Patient and his family.

The compilers of this Handbook have arranged Precedents, with such notes on the Practice as seemed to them useful, with the object of enabling a Solicitor to advise without much difficulty what relief it is most desirable should be asked for in each individual case likely to come before him in the course of his practice, and to see quickly what evidence is required in order to procure that relief.

Nearly all the Precedents have been used in actual practice and have been found accurate in form and sufficient for the

purpose in view, and their arrangement enables the Practitioner to see the proceedings that have to be taken in order to protect the person and property of a Lunacy Patient.

This Handbook is not intended to take the place of the larger works on the subject, but nevertheless it is hoped that it may be found useful to Solicitors and their managing clerks in the conduct of their profession.

The compilers are much indebted to Messrs. BRIDGES, SAWTELL & Co., for the loan of many valuable Precedents, and to Mr. CHARLES GARNETT, of the Chancery Bar, for some assistance and advice.

N. ARTHUR HEYWOOD,
ARNOLD S. MASSEY,
SOLICITORS.

10, *Norfolk Street, Strand, W.C.*

CONTENTS.



CHAPTER I.

	PAGE
POWERS OF ATTORNEY AND WHEN THEY CAN BE USED	1



CHAPTER II.

RECEPTION, URGENCY, AND CONTINUATION ORDERS	7
---	---



CHAPTER III.

PETITION OR SUMMONS : THE COMPARATIVE ADVANTAGES OF ONE OVER THE OTHER	18
---	----



CHAPTER IV.

PRECEDENTS OF AFFIDAVITS AND OTHER DOCUMENTS WHICH ARE NECESSARY WHEN PROCEEDINGS ARE ORIGINATED BY SUMMONS	23
---	----



CHAPTER V.

PRECEDENTS OF AFFIDAVITS AND OTHER DOCUMENTS TO BE USED WHEN PROCEEDINGS ARE ORIGINATED BY PETITION.	59
---	----



CHAPTER VI.

ON COMPLETING THE RECEIVER'S OR COMMITTEE'S SECURITY, AND OTHER INCIDENTAL MATTERS, INCLUDING ACCOUNTS AND AFFIDAVITS IN LIEU OF ACCOUNTS	78
---	----

CHAPTER VII.

	PAGE
SOME FORMS IN GENERAL USE, AND ALSO SOME REMARKS ON APPEALS AND TRAVERSES AND SUMMONSES FOR VESTING ORDERS	98

CHAPTER VIII.

SOME CONVEYANCING FORMS	120
-------------------------------	-----

CHAPTER IX.

FORMS OF SUMMONS TO WIND-UP ESTATE ON DEATH OF PATIENT, AND OF PETITION FOR A SUPERSEDEAS OR SUM- MONS TO DISCHARGE ORDER UNDER THE 116TH SECTION, AND THE EVIDENCE IN SUPPORT THEREOF RESPECTIVELY..	135
--	-----

APPENDIX A.

THE LUNACY RULES, WITH NOTES THEREON	148
--	-----

APPENDIX B.

SOME PRECEDENTS OF BILLS OF COSTS	221
---	-----

INDEX.....	237
------------	-----

TABLE OF CASES.

	PAGE
A., Re, (1904) 2 Ch. 328	- 170
Armstrong, Re, (1896) 1 Ch. 536	189, 191
Arrowsmith, Re, 6 W. R. 642	- 170
Ashley, Re, 1 Russ. & M. 371	- 160
 B., Re, (1892) 1 Ch. 459	 - 195
Baggs, Re, (1894) 2 Ch. 416	- 155
Barker, Re, (1904) W. N. 13	- 160
B. A. S., Re, (1898) 2 Ch. 392	175, 191
Bathe, Re, (1892) 3 Ch. 194	- 202
Blake, Re, 72 L. T. 280	- 189
Brewer, Re, 1 C. D. 409	- 155
Briscoe, Re, 1 De G. J. & S. 249	155, 189
Brown, Re, (1900) 1 Ch. 489	- 160, 161
Browne, Re, (1894) 3 Ch. 417	151, 165, 219
Brunner v. Moore, (1904) 1 Ch. 305	- 150
Buckingham, Re, 2 C. D. 690	155, 220
 Carr's Trusts, Re, (1904) 1 Ch. 792	 - 162
Caswells v. Sheen, (1893) W. N. 187	- 162
Cathcart, Re, (1892) 1 Ch. 549	- 189
———— (1893) 1 Ch. 466	152, 157, 189
———— (1902) W. N. 80	- 202
Claggett, Re, Fordham v. Claggett, 20 C. D. 653	- 149
Clarke, Re, 2 Phil. 282	- 160
———— (1898) 1 Ch. 336	161, 162
Clough's Estate, Re, 15 Eq. 284	- 155
C. M. G., Re, (1898) 2 Ch. 324	- 220
Combes, Re, 51 L. T. 45	- 170
Cooke, In the goods of, (1895) P. 68	- 151
Cresswell v. Haines, 8 Jur. N. S. 208	- 189
Crompe, Re, L. R. 4 Ch. 653	- 157

					PAGE
Davies v. Thomas, (1900) 2 Ch. 462	-	-	-	-	161
Didisheim v. London and Westminster Bank, Ltd., (1900)					
2 Ch. 16	-	-	-	-	162
Drewe v. Nunn (1879), 4 Q. B. D. 661	-	-	-	-	2
Evans, Re, 21 C. D. 297	-	-	-	-	160
Farnham, Re, (1895) 2 Ch. 799	-	-	-	-	161
——— (1896) 1 Ch. 836	-	-	-	-	160
——— v. Milward, (1895) 2 Ch. 735	-	-	-	-	154
Fitch v. Bermondsey Guardians, 91 L. T. 655	-	-	-	-	161
Frampton v. Webb, 11 W. R. 1018	-	-	-	-	189
French, Re, 3 Ch. App. 317	-	-	-	-	187
Fuller, Re, (1900) 2 Ch. 55	-	-	-	-	151
Gaitskell, Re, 40 C. D. 416	-	-	-	-	155
Gardner, Re, 10 C. D. 29	-	-	-	-	219
Gisborne v. Gisborne, 2 A. C. 306	-	-	-	-	160
Gist, Re, (1904) 1 Ch. 399	-	-	-	-	194
Gregson, Re, (1893) 3 Ch. 233	-	-	-	-	171
Grundy v. Buckeridge, 22 L. J. N. S. 1007	-	-	-	-	171
Harvey v. Rex, (1901) A. C. 601	-	-	-	-	160
Hill v. Philp, 7 Exch. 232	-	-	-	-	202
Hodgson, Re, 11 C. D. 888	-	-	-	-	170, 220
Holland, Re, 16 C. D. 672	-	-	-	-	170
Horne v. Pountain, 23 Q. B. D. 264	-	-	-	-	160, 173
Hoskins, Re, 4 De G. & J. 436	-	-	-	-	116, 171
Imperial Loan Co. v. Stone, (1892) 1 Q. B. 599	-	-	-	-	2
Isaacs v. Chinery, 74 L. T. 320	-	-	-	-	159, 174
Jenkins v. Morris, 14 C. D. 674	-	-	-	-	3
Jones, Re, 2 De G. F. & J. 554	-	-	-	-	189
——— 34 Sol. J. 661	-	-	-	-	189
——— Haycock, Ex parte, 5 Russ. 154	-	-	-	-	160
Knight, Re, (1898) 1 Ch. 257	-	-	-	-	162

TABLE OF CASES.

xi

	PAGE
Langdale, Re, (1901) 1 Ch. 3 - - - -	161
Leavesley, Re, (1891) 2 Ch. 1 - - - -	173
Leon, Re, (1892) 1 Ch. 348 - - - -	171
Lewis, Re, 1 Mac. & Gor. 23 - - - -	188, 189
M., Re, (1899) 1 Ch. 79 - - - -	183, 219
Meares, Re, 10 C. D. 552 - - - -	189
Milnes, Re, 1 C. D. 28 - - - -	155, 171, 220
Moore, Re, 1 Mac. & Gor. 103 - - - -	173
New York Security and Trust Co. v. Keyser, (1901) 1 Ch. 666 -	162
Noyce, Re, (1892) 1 Q. B. D. 642 - - - -	219
Pearson, Re, 5 C. D. 982 - - - -	170, 220
Phillips, Re, 4 Ch. App. 629 - - - -	188 189,
Piggott, Re, 3 Mac. & Gor. 268 - - - -	173
Pink, Re, 23 C. D. 577 - - - -	160, 161
Plenderleith, Re, (1893) 3 Ch. 332 - - - -	151, 160, 161
Price, Re, 34 C. D. 603 - - - -	160
Ray, Re, (1896) 1 Ch. 468 - - - -	155
Rhodes, Re, 44 C. D. 94 - - - -	160
Rice, Re, 32 C. D. 35 - - - -	171
Rowley, Re, 1 De G. J. & S. 417 - - - -	171, 189
Salt, Re, (1896) 1 Ch. 117 - - - -	155
Scott, Re, 27 C. D. 116 - - - -	158
Selby v. Jackson (1843), 6 Beav. 192 - - - -	2
Shearwood, Re, 82 L. T. Jo. 137 - - - -	202
Sparks, Re, 6 C. D. 361 - - - -	188
Strachan, Re, (1895) 1 Ch. 439 - - - -	202
Strangways v. Read, (1898) 2 Ch. 419 - - - -	187
Taylor, Re, 1 Mac. & Gor. 210 - - - -	189
Thiery v. Chalmers, Guthrie & Co., (1900) 1 Ch. 80 - - - -	162
Tottenham, Re, 2 Myl. & Cr. 39 - - - -	162
Townsend, Re, 1 Mac. & Gor. 686 - - - -	186, 189
Tugwell, Re, 27 C. D. 309 - - - -	164
Tye, Re, 81 L. T. R. 743 - - - -	161
Vivian v. Little, 11 Q. B. D. 370 - - - -	202

	PAGE
Watkins, Re, (1896) 2 Ch. 337 - - - -	- 180
Weaver, Re, 21 C. D. 615 - - - -	- 159
Weld, Re, 28 C. D. 514 - - - -	- 155
Wheeler, Re, 1 De G. M. & G. 434 - - - -	- 188
Whitbread, Ex parte, 2 Mer. 99 - - - -	- 160
Williams v. Wentworth, 5 Beav. 325 - - - -	- 189
Wood, Re, 1 L. T. 119 - - - -	- 153
 X., Re, (1894) 2 Ch. 415 - - - -	 - 155

LUNACY PRACTICE.

CHAPTER I.

POWERS OF ATTORNEY.

It may occasionally happen that (owing to a not unnatural aversion to the word "lunatic" as applied to a relation, or because the illness of the patient may possibly prove to be a temporary one) the Lunacy Court is regarded as a place to which no application must be made except as a last resort. In such a case, it is essential to consider whether the only possible alternative to lunacy proceedings—a power of attorney—can be made available, and to examine the decisions on the subject. The intention, then, is that the first chapter of this book shall explain the circumstances under which a power of attorney can be made available, and the law relating thereto, besides furnishing a form of power which can be used in appropriate cases. Subsequent chapters will deal with the practice when (as is far more usually the case) it is decided that proceedings in lunacy must be taken.

The main points now to be considered are:—

- (I.) What is the position of (a) the donee of a power of attorney, and (b) the persons acting with such donee under his power, when the power is executed by a person sane, or in a lucid interval, at the date of signing, but who subsequently becomes insane?
- (II.) The like where the donor is of unsound mind at the time of execution?

Apart altogether from Statute Law, it would appear that contracts entered into by a lunatic during a lucid interval are valid (a). Though the insanity of the principal, as between himself and his agent, *ipso facto* revokes the agency (b), the lunatic is, however, liable on contracts entered into by himself or by his agent with persons ignorant of the fact of the principal's lunacy, and to whom in the case of agency the lunatic had, when sane, represented the agent's authority (c).

The Conveyancing and Law of Property Acts, 1881 and 1882, may, however, be considered. Sect. 47 of the Conveyancing Act, 1881, provides that—

- (1) Any person making or doing any payment or act in good faith in pursuance of a power of attorney shall not be liable in respect of the payment or act by reason that before the payment or act the donor of the power had died or become lunatic, of unsound mind, or bankrupt, or had revoked the power, if the fact of death, lunacy, unsoundness of mind, bankruptcy, or revocation was not at the time of the payment or act known to the person making or doing the same.
- (2) But this section shall not affect any right against the payee of any person interested in any money so paid; and that person shall have the like remedy against the payee as he would have had against the payer if the payment had not been made by him.
- (3) This section applies only to payments and acts made and done after the commencement of this Act.

Sect. 8 of the Conveyancing Act, 1882, deals with a power given for valuable consideration. Sect. 9 is as follows:—

- (1) If a power of attorney, whether given for valuable consideration or not, is in the instrument creating the power expressed to be irrevocable for a fixed time therein specified, not exceeding one year from the

(a) *Selby v. Jackson* (1843), 6 Beav. 192.

(b) *Drew v. Nunn* (1879), 4 Q. B. D. 661.

(c) *Ibid.* and *Imperial Loan Co. v. Stone*, [1892] 1 Q. B. 599.

date of the instrument, then, in favour of a purchaser—

(i) The power shall not be revoked, for and during that fixed time, either by anything done by the donor of the power without the concurrence of the donee of the power, or by the death, marriage, lunacy, unsoundness of mind, or bankruptcy of the donor of the power; and

(ii) Any act done within that fixed time by the donee of the power, in pursuance of the power, shall be as valid as if anything done by the donor of the power without the concurrence of the donee of the power, or the death, marriage, lunacy, unsoundness of mind, or bankruptcy of the donor of the power, had not been done or happened; and

(iii) Neither the donee of the power nor the purchaser shall at any time be prejudicially affected by notice either during or after that fixed time of anything done by the donor of the power during that fixed time without the concurrence of the donee of the power, or of the death, marriage, lunacy, unsoundness of mind, or bankruptcy of the donor of the power within that fixed time.

- (2) This section applies only to powers of attorney created by instruments executed after the commencement of this Act.

A power of attorney may be valid although the grantor was not in every respect entirely of sound mind at the date of the execution thereof; for the mere existence of a delusion in the mind of a person entering into a contract is not sufficient to avoid it, even though the delusion is connected with the subject-matter of such contract. It is a question for the jury whether the delusion affected the contract (*d*).

From what has been said, it would appear that the only

(*d*) *Jenkins v. Morris*, 14 C. D. 674.

practicable and safe course to adopt where it is desired to obtain a power of attorney from a patient subject to temporary mental derangement will be—

- (a) To make such power irrevocable for the fixed period of one year, and
- (b) To obtain the grantor's execution thereto during a lucid interval.

Another and similar power should be obtained from the patient during some other lucid interval at a less distance of time than one year from the date of the original power, and so on as occasion may arise.

The definition of the term "purchaser," used in sect. 9, sub-sect. 1, of the Conveyancing Act, 1882, will be found in sect. 1, sub-sect. 2, of the same Act, and it will be observed that only persons who deal for valuable consideration are embraced by such term. Under these circumstances, sect. 9 will not protect transactions with a volunteer, *e.g.*, a voluntary allowance to a child, and voluntary payments *qua* voluntary payments cannot safely be made thereunder. But this difficulty may be obviated, at any rate to some extent, by inserting a clause in the power whereby authority is conferred on the donee to keep up the donor's establishment, and the donee will then treat all necessary and proper voluntary payments as part of the expenses of such establishment.

In many cases the expedient of a power of attorney would prove but a temporary makeshift, and no attorney should be advised to act for a longer period than the term of one year mentioned in his power or after the insanity of his donor becomes permanent.

Further, no donee of a power of attorney should act thereunder unless satisfied as to the mental capacity of his donor at the time of execution.

The following is a short form of power to be executed in a lucid interval by a person liable to temporary mental derangement. It should be modified to suit any particular circumstances, and will be adequate to conduct the patient's

affairs pending recovery or the institution of necessary proceedings:—

Form of Power of Attorney.

KNOW ALL MEN BY THESE PRESENTS *that I* of
do hereby appoint of my attorney
in my name or on my behalf—

1. *To carry on and maintain my establishment at in the same manner as it is now carried on by me, including the engagement and dismissal of servants and employees.*
2. *To endorse and sign my name to all cheques, dividend or interest warrants, receipts, or other instruments payable to me.*
3. *To let, manage and maintain all my freehold, copyhold and leasehold property, and to receive and collect the rents and profits thereof.*
4. *To demand, sue for and to prove in any bankruptcy, liquidation or administration for all moneys, chattels and other property to which I may be entitled.*
5. *To submit to arbitration or to compromise all actions, proceedings, claims, accounts and disputes, and to discharge all liabilities on my behalf.*
6. *To invest all moneys received under this power on my behalf.*
7. *To employ an agent or agents for all or any of the purposes aforesaid.*
8. *And I hereby declare that this power of attorney shall be in force and shall be irrevocable for one year from the date hereof.*

In Witness, &c.

It is hardly necessary to remind solicitors that every Englishman of full age is entitled himself to regulate his own movements and actions, unless and until some competent judicial authority has decided that he should in his own interests or in those of the community be restrained from so doing. It follows that, where (as is usually the case) any

restraint, however slight, is necessary or desirable, a power of attorney will afford no satisfactory solution: for the donee of such power will exercise duress or restraint at his own risk. In all such cases a reception order, or an order from the Masters in Lunacy, should be obtained; and the following chapters will contain an explanation of the steps which should be taken to obtain such orders accordingly.

Where proceedings are subsequently taken in lunacy with reference to a patient (who has granted a power of attorney), it would seem that the Masters in Lunacy have power to inquire into all the circumstances connected with the granting of such power, and the transactions carried out by the donee thereunder (e).

(e) See Rule 34 of the Lunacy Rules, 1892, in Appendix A.

CHAPTER II.

RECEPTION, URGENCY AND CONTINUATION ORDERS.

RECEPTION orders, the method of obtaining them, and other cognate matters, are dealt with by sects. 4 to 38 of the Lunacy Act, 1890, and sect. 7 of the Lunacy Act, 1891, to which the practitioner who requires further information than can be given in a text-book of this size is referred.

A reception order is made by a justice of the peace specially appointed for that purpose (see page 29), or a County Court judge, or a stipendiary magistrate. It is obtained upon a private application by petition, accompanied by a statement of particulars and by two medical certificates. If the petitioner is not the husband, or wife, or relative of the patient, he will have to explain in his petition why such husband, wife, or relative does not apply, and the circumstances under which he himself presents the petition.

The petitioner must be twenty-one years of age, and must have seen the patient within fourteen days of the date of his application: he must also undertake to visit the patient once in every six months.

Upon the hearing of the petition the magistrate or County Court judge may—

- (a) make an order forthwith, or
- (b) adjourn the matter for inquiries, or
- (c) visit the alleged lunatic, or
- (d) dismiss the application.

Notice of the day and time when the application is to be considered is to be either served on the lunatic or sent to him by registered post.

The application is to be considered in private, and no one except the parties interested, their legal advisers, and the doctors are allowed to attend.

If the petition is dismissed, the magistrate or County Court judge shall deliver to the petitioner a statement in writing of

In cases of urgency, when it is expedient either for the welfare of a person (not a pauper) alleged to be a lunatic, or for the public safety, that the alleged lunatic should be forthwith placed under care and treatment, he may be received and detained in an institution for lunatics, or as a single patient, upon an urgency order signed by the husband, or wife, or relative of the patient, and accompanied by one medical certificate. The person signing the urgency order must be at least twenty-one years of age, must have seen the patient within two days of the date of the order, and, if he be not the husband, or wife, or relative of the patient, the order shall contain a statement as to why such husband, or wife, or relative did not sign, and as to the circumstances under which the person in question did sign the order.

An urgency order remains in force seven days from its date, or, if a petition for a reception order is pending, until the petition is finally disposed of.

Form of Petition for an Order for Reception of a Private Patient.

In the Matter of Thomas Jones, a person alleged to be of unsound mind.

To a Justice of the Peace for
[or To His Honour the Judge of the County Court
of
or To Stipendiary Magistrate for].
The Petition of ⁽¹⁾ of in the county
of

(1) I am ⁽²⁾ years of age.

(2) I desire to obtain an order for the reception of

⁽¹⁾ Full postal address and rank, profession or occupation.

⁽²⁾ At least twenty-one.

Thomas Jones as a lunatic ⁽³⁾ *in the* _____ *asylum*
[or hospital, or house, as the case may be] of
situate at ⁽⁴⁾ _____ .

(3) *I last saw the said Thomas Jones at* _____ *on*
the ⁽⁵⁾ _____ *day of* _____ .

(4) *I am the* ⁽⁶⁾ _____ *of the said Thomas Jones [or*
if the petitioner is not connected with or related
to the patient, state as follows:] I am not related
to or connected with the said Thomas Jones.

The reasons why this petition is not presented by
a relation are as follows : [state them].

The circumstances under which this petition is
presented by me are as follows : [state them].

(5) *I am not related to or connected with either of the*
persons signing the certificates which accompany
this petition as [where the petitioner is a man]
husband, father, father-in-law, son, son-in-law,
brother, brother-in-law, partner or assistant, [or
where the petitioner is a woman] wife, mother,
mother-in-law, daughter, daughter-in-law, sister,
sister-in-law, partner or assistant.

(6) *I undertake to visit the said Thomas Jones person-*
ally or by some one specially appointed by me at
least once in every six months while under care and
treatment under the order to be made on this
petition.

(7) *A statement of particulars relating to the said*
Thomas Jones accompanies this petition.

⁽³⁾ Or "an idiot" or "person of unsound mind."

⁽⁴⁾ Insert a full description of the name and locality of the asylum, hospital or licensed house, or the full name, address and description of the person who is to take charge of the patient as a single patient.

⁽⁵⁾ Some day within fourteen days of the presentation of the petition.

⁽⁶⁾ Here state the connection or relationship with the patient.

If it is a fact, add :

(8) *The said Thomas Jones has been received in the asylum [or hospital, or house, as the case may be] under an Urgency Order dated the*

The petitioner therefore prays that an order may be made in accordance with the foregoing statement.

(Signed)

[Full Christian and surname.]

Date of presentation of the petition.

STATEMENT OF PARTICULARS.

Statement of particulars referred to in the annexed petition [or in the above or annexed order].

The following is a statement of particulars relating to the said Thomas Jones ⁽¹⁾ :—

Name of patient with Christian name at length.

Sex and age.

** Married, single, or widowed.*

** Rank, profession, or previous occupation (if any).*

** Religious persuasion.*

Residence at or immediately previous to the date hereof.

** Whether first attack.*

Age on first attack.

When and where previously under care and treatment as a lunatic, idiot, or person of unsound mind.

** Duration of existing attack.*

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others, and in what way.

⁽¹⁾ *If any particulars are not known the fact is to be so stated.*

** Where the patient is in the petition or order described as an idiot omit the particulars marked *.*

Whether any near relative has been afflicted with insanity.

Names, Christian names, and full postal addresses of one or more relatives of the patient.

Name of the person to whom notice of death to be sent, and full postal address if not already given.

Name and full postal address of the usual medical attendant of the patient.

(Signed) .

When the petitioner or person signing an Urgency Order is not the person who signs the statement, add the following particulars concerning the person who signs the statement :—

Name with Christian name at length.

Rank, profession, or occupation (if any).

How related to, or otherwise connected with, the patient.

Order for Reception of a Private Patient to be made by a Justice appointed under the Lunacy Act, 1890, Judge of County Courts, or Stipendiary Magistrate.

I, the undersigned , being a Justice for specially appointed under the Lunacy Act, 1890 [or the Judge of the County Court of , or the Stipendiary Magistrate for], upon the petition of John Jones, of ⁽¹⁾ , in the matter of Thomas Jones, a lunatic ⁽²⁾, accompanied by the medical certificates of and , hereto annexed, and upon the undertaking of the

⁽¹⁾ *Address and description.*

⁽²⁾ *Or an idiot or person of unsound mind.*

said John Jones to visit the said Thomas Jones personally, or by someone specially appointed by the said John Jones, once at least in every six months while under care and treatment under this order, hereby authorise you to receive the said Thomas Jones as a patient into your asylum⁽³⁾, and I declare that I have [or have not] personally seen the said Thomas Jones before making this order.

Dated

(Signed)

A Justice for _____ *, appointed under the
above-mentioned Act*

*[or The Judge of the County Court of
or A Stipendiary Magistrate].*

To⁽⁴⁾

Form of Urgency Order for the Reception of a Private Patient.

I, the undersigned, being a person twenty-one years of age, hereby authorise you to receive as a patient into your house⁽¹⁾ Thomas Jones as a lunatic⁽²⁾, whom I last saw at _____ on the⁽³⁾ _____ day of _____ 19 ____ . I am not related to or connected with the person signing the certificate which accompanies this order in any of the ways mentioned in the margin⁽⁴⁾. Subjoined [or annexed]

⁽³⁾ Or hospital, or house, or as a single patient.

⁽⁴⁾ To be addressed to the medical superintendent of the asylum or hospital, or to the resident licensee of the house in which the patient is to be placed.

⁽¹⁾ Or hospital, or asylum, or as a single patient.

⁽²⁾ Or an idiot or a person of unsound mind.

⁽³⁾ Some day within two days before the date of the order.

⁽⁴⁾ Husband, wife, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, partner or assistant.

hereto ⁽⁵⁾ is a statement of particulars relating to the said Thomas Jones.

(Signed) Name and Christian name at length.
 Rank, profession or occupation (if any).
 Full postal address.
 How related to or connected with the patient.
 [If not the husband, or wife, or a relative of the patient, the person signing to state as briefly as possible :

1. Why the order is not signed by the husband, or wife, or a relative of the patient.
2. His or her connection with the patient, and the circumstances under which he or she signs.]

Dated this day of , 190 .
 To Superintendent of the ⁽⁶⁾ asylum
 [hospital, or resident licensee of the house].

Certificate as to Personal Interview after Reception.

I certify that it would be prejudicial to Thomas Jones to be taken before or visited by a justice, a judge of County Courts, or magistrate.

(Signed)
 Medical Superintendent of the Asylum,
 or Hospital,
 or Resident Medical Practitioner,
 or Attendant of the
 or Medical Attendant of the said Thomas
 Jones.

⁽⁵⁾ See form on page 11.

⁽⁶⁾ Describing the asylum, hospital or house by situation and name.

Notice of Right to Personal Interview.

Take notice that you have the right, if you desire it, to be taken before or visited by a justice, judge of County Courts, or magistrate. If you desire to exercise such right you must give me notice thereof, by signing the enclosed form on or before the day of .

Dated .

(Signed) ,

*Superintendent of the Asylum,
or Hospital,
or Resident Licensee of
[or as the case may be].*

Notice of Desire to have a Personal Interview.

Dated .

[Address.]

I desire to be taken before or visited by a justice, judge, or magistrate having jurisdiction in the district within which I am detained.

(Signed)

Certificate of Medical Practitioner.

*In the matter of Thomas Jones, of⁽¹⁾ , in the
county⁽²⁾ of ⁽³⁾, an alleged lunatic.*

I, the undersigned , do hereby certify as follows:—

- (1) I am a person registered under the Medical Act, 1858, and I am in the actual practice of the medical profession.*

⁽¹⁾ *Insert residence of patient.*

⁽²⁾ *City or borough, as the case may be.*

⁽³⁾ *Insert profession or occupation, if any.*

Statement accompanying Urgency Order.

I certify that it is expedient for the welfare of the said Thomas Jones [or for the public safety, as the case may be] that the said Thomas Jones should be forthwith placed under care and treatment.

My reasons for this conclusion are as follows : [State them.]

Special forms, relating to (amongst others) pauper lunatics, are provided in the Second Schedule to the Lunacy Act, 1890. Such forms extend to pauper lunatics in workhouses, or wandering at large.

CHAPTER III.

PETITION OR SUMMONS—THE COMPARATIVE ADVANTAGES
OF ONE OVER THE OTHER.

PROCEEDINGS for the maintenance of a person of unsound mind, or for the management of his estate, should be originated either by petition or by summons; and the object of this chapter is to explain how the selection of the right course should be made, and the advantages which one method of procedure may have over the other.

Previous to the passing of the Lunacy Act, 1890 (53 & 54 Vict. c. 5), it was necessary in every case in which an order was sought with reference to a person of unsound mind or his estate to present a petition for an inquisition, and the delay and expense in the case of small estates were out of all proportion to the advantages gained. The old practice, moreover, absolutely compelled the branding of a person of weak intellect as a lunatic before any relation or friend could be officially appointed to protect and manage the patient and his estate. These defects were to a considerable extent remedied or removed by the Act of 1890, under the provisions of which it is now possible in certain specified cases to appoint a receiver of the patient's estate, with but little delay and expense, and without holding out the unfortunate patient for all time as a lunatic.

The 116th section of the Lunacy Act, 1890, is as follows:—

“ 116.—(1.) The powers and provisions of this Part of this Act relating to management and administration apply:—

“ (a) To lunatics so found by inquisition :

- “ (b) To lunatics not so found by inquisition, for the protection or administration of whose property any order has been made before the commencement of this Act :
- “ (c) To every person lawfully detained as a lunatic though not so found by inquisition :
- “ (d) To every person not so detained and not found a lunatic by inquisition with regard to whom it is proved to the satisfaction of the Judge in Lunacy that such person is through mental infirmity arising from disease or age incapable of managing his affairs :
- “ (e) To every person with regard to whom it is proved to the satisfaction of the Judge in Lunacy by the certificate of a Master, or by the report of the Commissioners, or by affidavit or otherwise, that such person is of unsound mind and incapable of managing his affairs, and that his property does not exceed two thousand pounds in value, or that the income thereof does not exceed one hundred pounds per annum :
- “ (f) To every person with regard to whom the Judge is satisfied, by affidavit or otherwise, that such person is or has been a criminal lunatic and continues to be insane and in confinement.

“ (2.) In the case of any of the above-mentioned persons not being lunatics so found by inquisition, such of the powers of this Act as are made exercisable by the committee of the estate under order of the Judge, shall be exercised by such person in such manner, and with or without security as the Judge may direct, and any such order may confer upon the person therein named authority to do any specified act, or exercise any specified power, or may confer a general authority to exercise on behalf of the lunatic, until further order, all or any of such powers without further application to the Judge.”

The results of the above enactment have been most revolutionary, although extremely beneficial, and the legislature

has thereby brought into existence a new being termed the "Receiver."

The material provisions of this section, so far as we are at present concerned, are those contained in sub-sections (c), (d), (e), and (f), and any case which can reasonably be brought within the terms of one of these four sub-sections should be originated by summons. In all other cases a petition is still necessary.

Sub-section (c) applies to cases in which a patient is detained, generally at an asylum, under a reception order legally made by a competent authority (a). Sub-section (d) is meant to govern illnesses arising from the decay or loss of part of the brain structure, unattended by violence or danger to others, and caused by old age, overwork, excesses or other similar causes. Sub-section (e) requires no explanation. Sub-section (f) is applicable in cases where a prisoner has been indicted for some crime, and being found by a petty jury to be of unsound mind, has been ordered to be detained during His Majesty's pleasure.

The advantages of originating proceedings by summons are:—

- (1) *Expedition*.—Probably the carrying through of a matter, if it is an unopposed petition, will take at least two months longer than the carrying through of a similar matter by summons.
- (2) *Expense* (b).—The expense of carrying through a matter by unopposed petition is generally more than 60*l.*, whilst 30*l.* will often represent the cost of proceedings originated by summons.
- (3) *Publicity*.—In cases commenced by petition, the patient is officially found and certified to be "a person of unsound mind," whilst on a summons he

(a) See Rule 56 of L. R., 1892, in Appendix A.

(b) As to improper expense, see Rule 21 of L. R., 1892, in Appendix A.

is not so found, and in proceedings under sub-section (d) the words "lunacy" or "lunatic" do not occur in the documents or papers.

A receiver appointed under the 116th section can do any act as regards the management of an estate or property that the Masters in Lunacy can, and are willing to authorise; and as the Masters have a very wide discretion, ample powers can usually be obtained from them. The authors know of one case in which a receiver appointed under sub-section (d) managed for some time a freehold and leasehold estate producing nearly 30,000*l.* per annum.

It is then suggested that proceedings should be originated by petition if, and only if, a particular case cannot reasonably be brought within the scope of either of the four above-mentioned sub-sections.

The necessary evidence in support of a summons is—

- (1) A medical affidavit.
- (2) A second ditto (*c*).
- (3) An affidavit of kindred and fortune.
- (4) An undertaking by the proposed receiver.
- (5) An affidavit of fitness of the proposed receiver.

These documents, duly sworn and completed, must be lodged at the Lunacy Office (Room 213) at the time when the summons is issued.

- (6) An affidavit of service of the summons on the patient, which should be sworn and lodged at the Lunacy Office at least one day before the return day of the summons.

(*c*) Provided one medical affidavit be filed which is sufficiently strong and conclusive as to the patient's insanity, a second medical affidavit may very generally be dispensed with under sub-sects. (*c*), (*e*) and (*f*) of the 116th section; but two medical affidavits are nearly always required under sub-sect. (*d*). In each case the practitioner must use his own discretion, filing two medical affidavits (both of which seem to be allowed on taxation) when there is really a reasonable doubt.

The necessary evidence in support of a petition is—

- (1) A medical affidavit.
- (2) A second ditto.
- (3) An affidavit of kindred and fortune.

These affidavits should be lodged at the Lunacy Office at the same time as the petition is presented.

Then the patient will have to be served, and an—

- (4) Affidavit of service will be required.
- (5) Consent of committee of estate to act.
- (6) The like committee of person.
- (7) Affidavit of fitness of committee of estate.
- (8) The like of committee of person.

The four latter documents are usually sworn and completed after the inquiry has been held and when the patient has been found to be of unsound mind.

It is proposed in the following chapters to give specimens of the various forms above referred to and also of some others in general use. Before doing this, however, it may be well to state that as a result of Rules 16 and 19 of the 1892 Lunacy Rules and the Rule dated the 29th October, 1900 (*d*), applications for (a) an inquisition, (b) a traverse, and (c) a supersedeas, are to be made by petition. All other applications under the Lunacy Acts, 1890 and 1891, shall, unless the Judge or Master otherwise direct, be made by summons.

(*d*) See Appendix A. for these Rules.

CHAPTER IV.

PRECEDENTS OF AFFIDAVITS AND OTHER DOCUMENTS
WHICH ARE NECESSARY WHEN PROCEEDINGS ARE
ORIGINATED BY SUMMONS.

SUMMONSES, affidavits, &c. under sub-sections (c), (e), and (f) of the 116th section of the Lunacy Act, 1890, should all be headed as follows:—

In Lunacy.

*In the matter of John Smith, a person
alleged to be of unsound mind.*

Summonses, affidavits, &c. under sub-section (d) should be headed as follows :—

In the matter of John Smith.

*And in the matter of the Acts 53 Vict.
cap. 5 and 54 & 55 Vict. cap. 65.*

Form of Summons.

(Formal heading as above.)

Let all parties concerned attend Master one of the Masters in Lunacy (a) at the Royal Courts of Justice, Strand, in the county of London, on Monday, the 9th day of January, 1905, at 11 o'clock in the forenoon, on the hearing of an application on the part of Thomas Smith, of 213, Whiteacre Street, in the city of London, Engineer.

- (1) *That the said applicant, Thomas Smith, may be appointed to receive the income which has accrued due on the property of the said John Smith, or which*

(a) See Rules 93—99 of Lunacy Rules, 1892 (both inclusive), in Appendix A, as to summonses, and Form 13 in Schedule thereto.

In Lunacy.

Let all parties concerned attend the Master in chambers at the Royal Courts of Justice, Strand, in the county of London, on Monday, the 9th day of January, 1905, at 11 o'clock in the forenoon, on the hearing of an application on the part of Thomas Smith, of 213, Whiteacre Street, in the city of London, Esq., that—

- (1) *The applicant may be appointed to exercise certain of the powers of a committee of the estate of the abovenamed John Smith, and may be authorised to receive and give a legal discharge for all sums of money now payable belonging or due to the said John Smith.*
- (2) *The secretaries or other proper officers of the undertakings mentioned in the schedule to the affidavit of the applicant sworn in this matter on the 6th day of December, 1904, may be ordered to lodge such securities in Court to the credit of this matter.*
- (3) *The whole of the income arising from such securities, when lodged in Court, may be paid to the applicant and expended by him to or for the maintenance of the said John Smith.*
- (4) *The reasonable and proper costs, charges, and expenses of the applicant and of any other necessary parties of and consequent upon this application may be taxed as between solicitor and client and paid out of the funds to be lodged in Court.*

Dated this 7th day of December, 1904.

*This summons was taken out by Messrs. & ,
of 415, Bedford Row, in the county of London, solicitors for the
applicant.*

To the above-named John Smith.

Another Form of Summons.*(Heading and formal parts as in previous precedents.)*

- (1) *The applicant may be appointed to exercise certain of the powers of a Committee of the estate of the above-named William Smith, and may be authorised to give a legal discharge for all sums of money now payable belonging or due to the said William Smith.*
- (2) *Directions may be given for the lodgment in Court to the credit of this matter of the certificate for 250l. Ordinary Stock in the London and North Western Railway Company and for the payment into Court to the like credit of 350l. cash in the London and Westminster Bank, Limited (the Branch), more particularly referred to in the affidavit of the applicant, and that the said sum of cash when so paid into Court as aforesaid may be invested in the purchase of India 3l. per cent. stock.*
- (3) *Directions may be given as to repairing and letting the freehold and leasehold messuages of which the said William Smith is tenant for life under the will of John Smith, deceased. And also as to dealing with the freehold and leasehold premises (other than 493, Lansdown Crescent, Kensington, hereinafter more particularly referred to) to which the said William Smith is absolutely entitled.*
- (4) *The sum of 218l. 16s. may be allowed for the maintenance of the said William Smith as from the 1st day of January, 1905, according to the following scheme :—*

	£	s.	d.
<i>Maintenance</i>	163	16	0
<i>Clothing</i>	20	0	0
<i>Holiday at seaside</i>	20	0	0
<i>Medical and other expenses, including carriage exercise</i>	15	0	0
<i>Total</i>	<u>£218</u>	<u>16</u>	<u>0</u>

- (5) *The applicant may be authorised to offer the said leasehold house and premises, 493, Lansdown Crescent aforesaid, and the furniture situate therein for sale by public auction, and directions may be given as to lodging the respective proceeds of sale in Court to the credit of this matter.*
- (6) *The applicant may be authorised for and on behalf of the said William Smith to execute an assignment of his estate and interest of and in the said leasehold premises to the purchaser or purchasers thereof, and that it may be declared that such execution of the purchase deed (to be settled by the Master in case the parties differ) by the applicant as aforesaid shall have the same virtue and effect as a vesting order and shall vest the said leasehold house and premises in the purchaser or purchasers for all the estate and interest therein of the said William Smith and as absolutely as if he himself had executed the said deed.*
- (7) *The applicant may be at liberty to retain the sum of 10l. 10s. per annum out of any moneys in his hands as such receiver as aforesaid, and by way of remuneration for his services.**
- (8) *The balance of the surplus income arising from the estate of the said William Smith, after making the periodical payments directed thereout, may be invested in the purchase of India 3l. per cent. stock, and the dividends thereon may from time to time be accumulated and invested in the purchase of like stock.*
- (9) *The reasonable and proper costs, charges and expenses, of the applicant and of any other necessary parties of, incident to, and consequent upon this application*

* Remuneration is only allowed to a receiver under exceptional circumstances, and if the income of the estate is more than sufficient to provide the sum annually required for maintenance, &c.

(including therein the costs of the sale of the said leasehold house and premises), may be taxed as between solicitor and client and paid out of the funds to be lodged in Court.

Dated, &c.

This summons was issued, &c.

Form of First Medical Affidavit under Sub-section (c).

In Lunacy.

In the matter of Mary Smith (spinster), a person alleged to be of unsound mind.

I, Richard Doe, the medical superintendent of the asylum in the town of Littlemoor, in the county of Middlesex, M.D., M.R.C.S., L.R.C.P., make oath and say as follows:—*

- (1) The above-named Mary Smith has, since the 1st day of September, 1904, been lawfully detained as a person of unsound mind at the asylum at Littlemoor aforesaid.*
- (2) Copies of the two medical certificates under which the said Mary Smith is confined are now produced and shown to me marked respectively "R. D." and "R. D.¹," and I say that I have carefully examined the said two copies of the medical certificates with the originals, and that the said two copies are true and accurate in every particular.*
- (3) The reception order† made by John Roe, a Justice*

* NOTE.—In every case in which a draft affidavit is sent to a doctor for approval, he should be asked to fill in the blanks left in such affidavit by describing fully the symptoms from which the patient is suffering. The doctor will do this far more fully and effectually, and will use much more appropriate terms than the draughtsman of the affidavit.

† A copy of the reception order (in lieu of the original) can be exhibited if the deponent swears that it is a true and accurate copy.

of the Peace for the said county of Middlesex, is now produced and shown to me marked " R. D. II"

- (4) *From the 1st day of September, 1904 (the date of her admission to the said asylum), until the present time, the said Mary Smith has been suffering from*
- (5) *I saw the said Mary Smith on the 4th day of December, 1904, when she was still of the same unsound state of mind as above described, and I am of opinion that there is no improvement in her mental condition, and that she is of unsound mind and understanding, and unfit for the management of herself or her affairs.*

*Sworn at Littlemoor, in the county
of Middlesex, this 10th day of } RICHARD DOE.
December, 1904.*

Before me,

A Commissioner for Oaths.

NOTE.—Under section 10 of the Lunacy Act, 1890, a certain number of the justices of the peace for each district are appointed annually by resolution at Quarter Sessions to exercise jurisdiction in lunacy for the current year; and under these circumstances a certificate of the clerk of the peace for the particular district is required that the justice of the peace who signed the reception order was duly authorised so to do.

Form of First Medical Affidavit under Sub-section (d).

In the matter of Mary Smith (widow).

*And in the matter of the Acts 53 Vict. c. 5,
and 54 & 55 Vict. c. 65.*

*I, Richard Doe, of 5001, High Street, in the county
of London, M.D., M.R.C.S., L.R.C.P., make oath and
say as follows :—*

- (1) *For the last thirteen years I have known and been professionally concerned as the medical attendant of the above-named Mary Smith, and in the month of November, 1904, in company with John Roe, doctor of medicine, I visited the said Mary Smith, and found she was suffering from and was then through mental infirmity, arising from* disease or age,* incapable of managing her affairs.*
- (2) *I again visited the said Mary Smith on the 1st December, 1904, at 2003, North Street, in the said county of London, and examined her as to the then state of her mind, and in my judgment and belief she is now in a state of unsoundness of mind and incapable of managing herself or her affairs.*
- (3) *The unsoundness of mind of the said Mary Smith is rendered manifest by*

*Sworn at No. 203, Bedford Row, }
in the county of London, this 10th } RICHARD DOE.
day of December, 1904.*

Before me,

A. Commissioner for Oaths.

** Either the words "disease or" or else the words "or age" should be struck out, according to the circumstances of the case.*

Form of First Medical Affidavit under Sub-section (e).*In Lunacy.**In the matter of John Smith, a person
alleged to be of unsound mind.**I, Richard Doe, of 5001, High Street, in the county of
London, M.D., M.R.C.S., L.R.C.P., make oath and say
as follows :—*

- (1) *I have for years and upwards practised as
physician in the county of London and I have had
great experience in the treatment of mental diseases.*
- (2) *On the day of , 1904, I visited the
above-named John Smith at in the county
of where he is now confined, for the purpose
of ascertaining his state of mind.*
- (3) *I took great pains to examine into the intellectual
capacity of the said John Smith, and from such
examination I am firmly convinced that he is a
person of unsound mind and totally incapable of
governing himself or of managing his own affairs.*
- (4) *During my interview with the said John Smith*

*In my opinion he is suffering from chronic brain
disease, and there is no probability of his recovery.*

Sworn at No. 203, Bedford Row,
in the county of London, this 10th } **RICHARD DOE.**
day of December, 1904.

*Before me,**A Commissioner for Oaths.*

Form of First Medical Affidavit under Sub-section (f).*In Lunacy.**In the matter of John Smith, a person alleged to be of unsound mind.*

I, _____, the medical superintendent of the Broadmoor Criminal Lunatic Asylum, situate at Crowthorne, in the county of Berks, M.D., M.R.C.S., L.R.C.P., make oath and say as follows :—

- (1) *The above-named John Smith was on the _____, 1904, brought up at the Bristol Assizes on the charge of murdering his father. Medical evidence was called, whereupon the jury found that he was incapable of pleading. Since the said _____, 1904, the said John Smith has been lawfully detained as a person of unsound mind at the said Broadmoor Criminal Lunatic Asylum.*
- (2) *A copy of the warrant, signed by the Home Secretary for England, under which the said John Smith is confined, is now produced and shown to me, marked "A." and I say that I have carefully examined the said copy of the warrant with the original and that the said copy is true and accurate in every particular.*
- (3) *From the _____, 1904 (the date of his admittance to the said asylum), until the present time, the said John Smith has been suffering from _____.*
- (4) *I saw the said John Smith on the _____, 1904, when he was still of the same unsound state of mind as above described, and I am of opinion that there is no improvement in his mental condition, and that he is of unsound mind and understanding and unfit for the management of himself or his affairs.*

Sworn at _____ in the county _____
of _____ this _____ day }
of _____ 1905.

*Before me,**A Commissioner for Oaths.*

Form of Second Medical Affidavit.

After adopting the proper formal heading (see page 23) this affidavit will be applicable under whatever sub-section proceedings are taken.

In Lunacy.

*In the matter of John Smith, a person
alleged to be of unsound mind.*

*I, Richard Doe, of 599, Harley Street, in the county of
London, M.D., &c., make oath and say as follows :—*

- (1) *On the day of , 1904, at the request of
[the doctor who makes the first medical affidavit] I
visited the said John Smith at , in the county
of , for the purpose of ascertaining the state
of his mind.*
- (2) *From my examination of the said John Smith I am
of opinion that he is of unsound mind and is in-
capable of the management of himself or his affairs,
and I formed such opinion from the following facts :*
- (3) *I last saw the said John Smith on the day
of , 1904, when he was still of the same
unsound state of mind as above described.*

*Sworn at , in the county
of , this day of , } RICHARD DOE.
1905.*

Before me,

A Commissioner for Oaths.

NOTE.—In proceedings under sub-sections (c), (d), and (f), the evidence that the case comes within one of such sub-sections is furnished by the first medical affidavit. In proceedings under sub-section (e) the doctors prove unsoundness of mind, and the case is then brought within the sub-section by the affidavit of kindred and fortune.

Except the special words in the doctors' affidavits

proving lawful detention, mental infirmity arising from disease or age, or detention as a criminal lunatic (as the case may be), there is no *absolutely* stereotyped form of medical evidence, and the precedents given in this chapter or in the following one can be adapted or altered if necessary.

Form of Notice to be endorsed on the Summons.

Every summons served on the patient must have a notice (a) endorsed thereon in the following form, viz. :—

To John Smith, Esq.

(Address.)

Take notice that a summons, of which a copy is within written, was on the 2nd day of January, 1905, issued by Messrs. & , of 415, Bedford Row, in the county of London, and that in pursuance thereof orders may be made on the ground that—

[If under sub-section (c)] *you are lawfully detained as a lunatic ;*

[If under sub-section (d)] *you are a person, through mental infirmity arising from disease* or age*, incapable of managing your affairs ;*

[If under sub-section (e)] *you are a person of unsound mind and incapable of managing your affairs, and that your property does not exceed 2,000l. in value, or the income thereof 100l. per annum ;*

[If under sub-section (f)] *you are or have been a criminal lunatic and continue to be insane and in confinement ;*

(a) See Forms 8 and 10 in Schedule to Appendix A., and Rule 48 of L. R., 1892.

* *Either the words "disease or" or else the words "or age" should be struck out, according to the circumstances of the case.*

for the purpose of rendering your property or the income thereof available for the maintenance or benefit of yourself [or † “of yourself and family,” or “for carrying on your trade or business” †], and that if you intend to object to such orders being made, notice of such objection must be signed by you and attested by a solicitor and filed at the office of the Masters in Lunacy, the Royal Courts of Justice, London, within seven clear days after your receipt of this notice.

Dated the 2nd day of January, 1905.

(Signed) ,

*A member of the firm of & ,
415, Bedford Row, W.C.,
Solicitors for the Applicant.*

Form of Affidavit of Service (a).

In Lunacy.

In the matter of John Smith, a person alleged to be of unsound mind.

I, , of 415, Bedford Row, in the county of London, clerk to Messrs. & , of the same place, solicitors, make oath and say as follows:—

- (1) I did on the 2nd day of January, 1905, at o'clock in the noon, personally serve the above-named John Smith with a summons in this matter, dated the 31st day of December, 1904, issued from and under the seal of the Masters in Lunacy, by delivering to and leaving with the said John Smith, personally, at , in the county of , a true copy of the said summons.*

† According to the circumstances of the case.

(a) See Rule 49 of L. R., 1892, in Appendix A.

- (2) *I say that on such summons, so served as aforesaid, was indorsed a notice in the words and figures following, that is to say; (copy notice endorsed on summons, including the signature thereto, &c.).*
- (3) *And I further say that [such notice was signed by the said * in my presence] or [I am well acquainted with the handwriting of the said * , and that the signature at the foot of the notice is in his proper handwriting].*

Sworn, &c.

Form of Undertaking by Proposed Receiver (b).

(Insert formal heading.)

I , of , hereby undertake to apply all such moneys as I may receive belonging to the above-named John Smith or his estate, and all moneys which I may receive on his account, in such manner as the Masters in Lunacy shall direct, and to account for such moneys when required. And further, to give such security for the due application and accounting for such moneys as may be required by any order of the Masters; and to obtain and send every six months to the Masters a report from a duly qualified medical man as to the bodily and mental condition of the said John Smith. And further, every six months to give notice in writing to the Masters of the then place of abode of the said John Smith. And further, to use my best endeavours to produce the said John Smith, and to allow him to be visited by any Chancery Visitor or other person authorised by the Masters to visit him, and to give such directions as the Masters may require to facilitate such visits.

Dated this 10th day of January, 1905.

*Witness † to the signature of the }
above-named . }*

* *The Solicitor for the Applicant.*

(b) See Rule 4, L. R., 1893, in Appendix A.

† *The witness must be a solicitor.*

Form of Affidavit of Fitness.*In Lunacy.*

*In the matter of John Smith, a person alleged
to be of unsound mind.*

I, , of , in the county of , make oath
and say as follows:—

- (1) *I have for years last past known and been
intimately acquainted with , of , in the
county of , the person proposed to be appointed
a receiver in this matter.*
- (2) *The said is a highly respectable and responsible
person, of good credit, and greatly esteemed in the
neighbourhood in which he resides as aforesaid, and
of good business habits. The said is also of a
kind and humane disposition.*
- (3) *To the best of my knowledge and belief the said
is well qualified in every respect to be appointed to
exercise all or any of the powers of the Committee of
the estate or person of the above-named John Smith.*

Sworn, &c.

AFFIDAVIT OF KINDRED AND FORTUNE.

Apart from the heading there is no special form of affidavit of kindred and fortune. Such affidavit should enable a person who is unacquainted with the facts of the case to understand—

- (1) Of whom the patient's family consists, who his relations are, and more especially who his heir-at-law and next of kin may be.
- (2) What property the patient has, either in possession or reversion, what is the annual income thereof, the amount required for his maintenance, and any general suggestions which the applicant can make as to the best method in the interest of the patient [and his family] of dealing with the same.

- (3) It is desirable to explain shortly the patient's past life, and how and under what circumstances he became of unsound mind.

It is not necessary (at any rate in the first instance) to prove births, deaths and marriages strictly by certificate, nor, as a general rule, is it imperative to exhibit deeds and other documents.

When a patient is entitled to real estate under a complicated title, or there are numerous deeds or wills to be recited, it is not unusual for the applicant to swear one affidavit as to kindred and his solicitor another as to fortune.

It is obvious, therefore, that no special form of affidavit of kindred and fortune generally applicable can be given, but that such affidavit must vary more or less completely according to the circumstances of the particular case. A few forms of affidavit which have actually been used are, however, given in the hope that they may afford some kind of precedent, and may indicate the points to be observed by the draftsman.

Form of Affidavit of Kindred and Fortune.

In Lunacy.

*In the matter of Mary Johnson, a person
alleged to be of unsound mind.*

*I, Edward Johnson, of 500, Market Street, in the City
of Manchester, Tobacconist, make oath and say as follows :—*

- (1) *I am the husband of the above-named Mary Johnson.
We were married to each other on the 9th day of
March, 1897, and there has been issue of such mar-
riage one child and no more, namely, Stephen Johnson,
who died on the 13th day of March, 1898.*
- (2) *William Frere, the uncle (by marriage) of the said
Mary Johnson, died on the 1st day of December,
1884, having previously made his last will and testa-*

ment, dated the 17th day of May, 1883, whereby he appointed John Brown, Frederick Smith, and James Robinson his executors and trustees thereof, and after giving his wife a life interest in his property and directing payment of certain legacies as therein mentioned he gave and devised one-thirteenth part of the residue of his estate to the said Mary Johnson.

- (3) *The said William Frere died without having altered or revoked his said will and the same was duly proved on the 10th day of February, 1885.*
- (4) *Elizabeth Frere, the aunt of the said Mary Johnson, died on the 20th day of April, 1894, a widow, and I have been informed by Messrs. & Co., the solicitors for the trustees and executors of the will, and believe that the whole of the testator's estate has been realised, and that the one-thirteenth share in such estate to which the said Mary Johnson is entitled amounted to the sum of £268 13s. 6d. and no more.*
- (5) *The said Elizabeth Frere, by her last will and testament, dated the 19th day of January, 1893, appointed the said John Brown and Frederick Smith executors thereof and gave to the residuary legatees of her late husband's estate the sum of £100, and afterwards directed that the duties and expenses thereon should be paid out of her estate.*
- (6) *The said Elizabeth Frere died without having altered or revoked her said will and the same was duly proved by both the executors on the 6th day of June, 1894.*
- (7) *I have been informed by Messrs. & Co., the solicitors for the executors of the said will, and believe that the said legacy of £100 has been divided and that the one-thirteenth share in such legacy to which the said Mary Johnson is entitled amounts to the sum of £7 13s. 10d. and no more.*
- (8) *The said Mary Johnson is not, to the best of my knowledge and belief, entitled to any other property*

than that hereinbefore mentioned and I am now desirous of having the same made available for her maintenance.

- (9) *The said Mary Johnson was on the 7th day of July, 1898, on the certificate of John Roe, a surgeon, and the order of two Justices of the Peace, conveyed to the Prestwich Asylum as a person of unsound mind and incapable of managing her affairs, and she is still residing there.*
- (10) *I have from the said 7th day of July, 1898, up to the 26th day of June last, paid for the maintenance of the said Mary Johnson, but in consequence of depression in business and other circumstances I have been and still am quite unable to continue such payment.*
- (11) *I have been informed by the said Messrs. & Co., and believe that the Guardians of the Poor for Manchester have claimed against the trustees of the said will of the said William Frere the sum of seven guineas for the past maintenance of the said Mary Johnson from the 26th June, 1904, to the 1st October, 1904, being at the rate of 10s. 6d. per week.*
- (12) *I have also been informed by the said Messrs. & Co., and believe that the Guardians of the Poor will accept £25 per year for the maintenance of the said Mary Johnson, payable half-yearly, and that £5 per annum will be sufficient to cover my costs of visiting my wife and other incidental expenses, and I am now desirous of obtaining an order whereby the above-mentioned fund may be made available for my wife's past and future maintenance.*
- (13) *I depose to the above facts from my own knowledge, except where otherwise stated.*

Sworn, &c.

Another Form of Affidavit of Kindred and Fortune.*In Lunacy.*

*In the matter of Mary Jones (spinster), a
person alleged to be of unsound mind.*

*I, Mary Smith, the wife of John Smith, of Blackacre, in
the county of York, make oath and say as follows :—*

- (1) *I am a niece, ex parte materna, of the above-named
Mary Jones, and am enabled to depose to the follow-
ing facts from my own knowledge :*
- (2) *My grandfather, John Jones, and my grandmother,
Eliza Jones (formerly Eliza Roe, spinster), were
respectively only once married, namely, to each other
in the year 1830.*
- (3) *There was issue of the marriage of my said grand-
father and grandmother six children only, viz. :—*
 - (a) *John Jones, the younger, born in the year 1831*
 - (b) *Thomas Jones . . . ditto 1832*
 - (c) *The above-named Mary Jones . ditto 1833*
 - (d) *Eliza Jones, the younger . ditto 1835*
 - (e) *Harry Jones . . . ditto 1836*
 - and*
 - (f) *Emma Jones . . . ditto 1839*
- (4) *My said grandfather and grandmother died many
years since.*
- (5) *The said John Jones the younger, died in the year
1868 ; the said Thomas Jones died in the year 1871 ;
and the said Eliza Jones, the younger, died on the
27th February, 1896.*
- (6) *The said Harry Jones, many years ago, emigrated to
Australia, and has not been heard of since. It is
not known whether he is alive or dead.*
- (7) *I am unable to say of my own knowledge which of my*

uncles above mentioned had issue, but I am informed and verily believe that some of them died leaving issue.

- (8) *My mother, the said Emma Jones, was only once married, namely, in the month of January, 1860, to John Roe. There was issue of the marriage of my said father and mother two children only, namely—*
- (a) *Myself, this deponent, who was born in the month of February, 1861, and*
 - (b) *Richard Roe, born in April, 1862, and who is still living.*
- (9) *My said mother died in the month of January, 1897, but my father is still living.*
- (10) *I, this deponent, was married on the 1st June, 1885, to John Smith, and there has been issue of our marriage.*
- (11) *My aunt, the said Mary Jones, resided for many years with her sister, the said Eliza Jones, the younger, in a house at Blackacre, which belonged to them jointly. The said Mary Jones continued to reside at Blackacre after the death of the said Eliza Jones on the 27th February, 1896, but grief at the loss of her sister seems to have caused her to lose her reason and ultimately necessitated her removal to the Borough Lunatic Asylum.*
- (12) *The said Eliza Jones, the younger, by her will dated the 20th January, 1896, appointed myself, this deponent, and my said husband executors and trustees, and after bequeathing her wearing apparel to the said Mary Jones and her furniture and effects to her trustees for the use of her said sister for life, the testatrix bequeathed the residue of her personal estate to her trustees upon trust for conversion and investment and to permit her said sister to receive the*

annual income thereof for her life. The testatrix also gave her half share in the messuage at Blackacre to her said sister for her life.

- (13) *The said will of the said Eliza Jones was duly proved by both the said executors in the Principal Probate Registry on the 1st day of May, 1896. The residue of the real and personal estate of the said Eliza Jones to the income of which the said Mary Jones is entitled for life is now represented by the stocks, funds, and other securities specified in the first schedule hereto.*
- (14) *The said Mary Jones is absolutely entitled to the real and personal estate the particulars of which, together with the annual value (or estimated value) thereof, as the case may be, are set out in the second schedule hereto.*
- (15) *Since the said Mary Jones was removed to the said Borough Asylum her estate and property has been managed by Mr. , of 506, Bedford Row, in the county of London, solicitor, and an account showing the amounts received and the payments made for or on behalf of the said Mary Jones is now produced and shown to me marked "A."*
- (16) *The cost of the maintenance of the said Mary Jones at the Blackacre Borough Asylum is as follows:—*

	£	s.	d.
<i>Maintenance</i>	150	0	0
<i>Clothing</i>	30	0	0
<i>Holiday at Seaside</i>	20	0	0
<i>Medical and sundry expenses, including carriage exercise.</i>	27	0	0
<i>Making a total of</i>	£227	0	0

The FIRST SCHEDULE above referred to.

Particulars of the Real and Personal Estate to the income of which the said Mary Jones is entitled for her life.

<i>Description of Security, &c.</i>	<i>Annual income, or estimated annual income, as the case may be.</i>
(1) <i>One moiety of the house and premises at Blackacre to which the said Eliza Jones, the younger, and the said Mary Jones were entitled as tenants in common, and which is of the estimated value of 2,500l. This house can probably be let so as to produce 150l. per annum, one moiety of which (less tax) will be</i>	£ s. d. 72 10 0
(2) <i>3,000l. New Consols, which produces per annum (less tax) .</i>	70 1 8
(3) <i>500l. secured on mortgage of "The Close" at Blackacre, aforesaid, at 4 per cent. interest (less tax)</i>	19 6 8
(4) <i>A life interest in one moiety of the furniture of very little value.</i>	
<i>Estimated annual value of the property to which the said Mary Jones is entitled for her life</i>	£161 18 4

The SECOND SCHEDULE above referred to.

Particulars of the Real and Personal Estate of which the said Mary Jones is seised in fee simple, or to which she is absolutely entitled, as the case may be.

<i>Description of Security, &c.</i>	<i>Annual income, or estimated annual income, as the case may be.</i>
(1) <i>One moiety of the said house situate at Blackacre, and described in the first schedule hereto</i>	£ s. d. 72 10 0
(2) <i>4,000l. India 2l. 10s. per cent. stock</i>	96 13 4
(3) <i>One moiety of the furniture referred to in the first schedule hereto, which is of very little value.</i>	
<i>Estimated annual value of the real and personal estate of which the said Mary Jones is seised in fee simple, or to which she is absolutely entitled, as the case may be</i>	£169 3 4

Sworn, &c.

Another Form of Affidavit of Kindred and Fortune.*In Lunacy.**In the matter of William Smith, a person
alleged to be of unsound mind.**We, George Smith, of 1902, Cornhill, in the city of
London, Provision Merchant, and John Roe, of 1533,
High Holborn, Tailor, do jointly and severally make oath
and say as follows :—**And first I, the said George Smith, for myself say :—*

- (1) *My father, John Smith, and my mother, Ann Smith
(formerly Ann Brown, spinster), were respectively
only once married, namely, to each other in the
year 1847.*
- (2) *There was issue of the marriage of my said father
and mother four children only, viz. :—*
 - (a) *The above-named William Smith, born on
the 3rd March, 1848 ;*
 - (b) *Jane Smith, born 1st June, 1849 ;*
 - (c) *Sarah Smith, born 15th July, 1850 ; and*
 - (d) *Myself, this deponent, born on the 23rd
September, 1853.*

*The said Jane Smith died in the year 1856. The
said Sarah Smith married one Thomas Robinson,
of Manchester, and there was issue of the said
marriage one child only, who attained the age of
eleven years and died. The said Sarah Robinson
died in the year 1896. Neither the said William
Smith nor myself, this deponent, have ever been
married.*

- (3) *My said father and mother died some years since.*
- (4) *The said William Smith has during the last twenty
years followed no profession or occupation. Since
the death of our mother (which occurred some five
years since) he has resided in the leasehold messuage,*

No. 999, Eaton Terrace, in the county of London, to which he is entitled for life under the will hereinafter more particularly referred to of our said father. During the last eighteen months the said William Smith's health has been seriously impaired by excessive drinking, and I have greatly deplored the influences brought to bear on him by those with whom he associated previously to his removal to Dr. Doe's Asylum. In my judgment the present unsoundness of mind of the said William Smith is largely, if not entirely, due to the excesses in which he has recently indulged, and it is very desirable that he should be protected from himself. The estimated yearly cost of maintaining the said William Smith at Dr. Doe's Asylum is as follows :—

<i>Maintenance-</i>	-	-	£163	16	0
<i>Clothing</i>	-	-	20	0	0
<i>Holiday at seaside</i>	-	-	20	0	0
<i>Medical and other expenses, including carriage exercise</i>	-	-	15	0	0
			£218	16	0

- (5) *My said father, the said John Smith, by his will dated the 1st day of June, 1897, appointed the said John Roe sole executor, and after making certain pecuniary and specific bequests, the testator gave, devised and bequeathed all his real estate, and the rest and residue of his personal estate, unto the said John Roe, upon trust (after the death of my said mother) as regards all his freehold messuages and hereditaments situate in North Street, London, and his houses 101, South Street, and 999, Eaton Terrace, that his trustee should allow the said William Smith to enter into and remain in possession or receipt of the rents and profits during his life*

or until he should become bankrupt or alienate or charge, or affect to alienate or charge his said life estate in the said premises or some part thereof, or until some other event should happen whereby such life estate or some part thereof would, if belonging absolutely to him, become vested in or charged in favour of some other person or persons, and after the determination or cesser of the said life estate the trustee should pay and apply the rents and profits for the maintenance and support or benefit of the said William Smith, his wife and issue, and myself, this deponent, and my children as therein mentioned in such manner in all respects as the trustee should in his uncontrolled discretion think fit, and from and after the decease of the said William Smith in trust to pay and apply the rents and profits for the benefit of his widow and children and upon trust for such children to be vested in them on such dates and in such manner as therein mentioned, and in case none of the children of the said William Smith should attain an indefeasibly vested interest under the trust aforesaid, then upon the like trusts in favour of myself, this deponent, my wife or widow and children as were thereafter declared of and concerning the hereditaments nextly thereafter mentioned. The testator then directed his trustee to stand possessed of his freehold messuages 201 and 202, East Street, and his houses 203 and 204, West Street, and the two houses at the rear thereof, and his houses numbers 300, 301, 302 and 303, Middle Street, in trust for myself, this deponent, and for my wife or widow and children in identically similar terms to those thereinbefore set out and contained in the devise in favour of my said brother, and the testator declared that in case none of my children should attain an indefeasibly vested interest the said messuages and premises should be held upon the like trusts in favour

of the said William Smith, his wife or widow and children, as were thereinbefore declared of and concerning the hereditaments thereinbefore devised to the said William Smith. The testator gave, devised and bequeathed all the rest and residue of his estate and effects not thereinbefore fully disposed of equally between the said William Smith and myself, and directed "that every tenant for life under this my will of any real or leasehold estate shall be bound to maintain the real or leasehold property given to him or her for his or her life or for other such determinable estate or interest as aforesaid in a good and substantial state of repair, and I empower my trustee (but do not make it obligatory on him) to require every such tenant to fulfil this duty of repairing and to take all lawful means to enforce the fulfilment of such duty."

- (6) *The testator died on the 8th day of August, 1898, without having revoked or altered his said will, and the same was duly proved by the said John Roe in the Principal Probate Registry on the 15th day of September, 1898.*
- (7) *I have in the first schedule hereto set out full particulars of the real and personal estate to which the said William Smith is entitled for life under the will of the said John Smith, deceased. I estimate such property to be worth about 4,275l. and to produce when all the houses are let a net annual income of 265l. 19s. or thereabouts.*
- (8) *I have in the second schedule hereto set out full particulars of the real and personal estate of which the said William Smith is seised in fee simple or to which he is absolutely entitled, as the case may be. I estimate such property to be worth rather more than 2,000l. and to produce when all the houses are let a net annual income of 99l. 15s.*

And I, the said John Roe, for myself say :—

- (9) *The said William Smith has not maintained the real and leasehold property to which he is entitled for life in good and substantial repair in accordance with the provisions in the will of the said testator contained. Some of the property also to which he is absolutely entitled is in an unsatisfactory condition and substantial repairs—painting, papering, cleansing and other work—will have to be carried into effect if tenants are to be found for those portions of the property which are unlet and the present tenants of the remaining portions of the property are to be retained. I estimate that the necessary repairs will be approximately as follows :—*

(a) Cost of painting houses in	£	s.	d.
North Street	27	8	0
(b) General repairs and cleansing to ditto	40	0	0
(c) Cost of painting and general repairs to 101, South Street	12	0	0
(d) Cost of general repairs to 882 to 888, Short Street .	15	0	0
(e) Actual cost of work done at North Street aforesaid pursuant to sanitary notices served by the local authorities, and now payable .	11	4	4
	£105	12	4

An estimate for the works comprised under heads (a), (b), (c) and (d) is now produced and shown to me marked "J. R."

- (10) *In addition to the sums mentioned in the last preceding paragraph hereof, it will in my judgment be necessary to expend some 20l. or more in painting the leasehold premises in Long Street, and it is very probable that further sanitary notices will be served in respect of the North Street houses.*
- (11) *The rents of the property in North Street and South Street have for many years past been collected by Messrs. Brown, Jones & Co., Estate Agents, 5001, High Street, Kensington, at a commission of 5l. per cent. on the sums received, and I suggest that this arrangement should be continued.*
- (12) *In my judgment and opinion it would be undesirable, in view of his former associates and companions in that immediate neighbourhood, that the said William Smith should if he regains his normal health return to reside at 999, Eaton Terrace, and for this reason, and because the house can be more advantageously let as an unfurnished residence, I suggest that the furniture belonging to the said William Smith and now situate in the said house should be offered for sale by public auction and that the necessary repairs and decorations to the said house (which will amount to about 30l.) may be paid for out of the patient's estate. Otherwise it will be very difficult, if not impossible, to obtain a tenant for the said premises.*
- (13) *Should I be appointed Receiver there will be 18 houses belonging to the said William Smith to be managed and let, and it will be necessary for me from time to time to superintend the repairs and alterations thereto, to pay the outgoings and to collect and superintend the collection of the rents arising therefrom. Having regard to the time and labour which must necessarily be devoted thereto and subtracted from my own business, I respectfully submit that a small remuneration should be made to me for*

my services, and I ask that if appointed Receiver I may be allowed the sum of 10 guineas a year and that in addition the necessary premium to a guarantee society for acting as my sureties may be allowed out of the patient's estate.†*

And I, the said George Smith, for myself say :—

- (14) *As the heir-at-law and sole next of kin of the said William Smith and the person contingently entitled under the cross-remainder contained in the said will of our said father, I consider the request made by the said John Roe and contained in the last preceding paragraph hereof to be a fair and reasonable one. The remuneration if granted will in no way affect the maintenance and comfort of the said William Smith, the income of his estate being considerably in excess of all necessary expenditure.*

* *Remuneration is only allowed to a Receiver under exceptional circumstances, and if the income of the estate is more than sufficient to provide the sum annually required for maintenance.*

† *A premium paid to a guarantee society for acting as sureties is only allowed out of the patient's estate if and when specially authorised by the Masters in Lunacy. Usually the Receiver who goes to a guarantee society has to pay the premium out of his own pocket.*

[For Schedule to Affidavit, see next page.]

The FIRST SCHEDULE above referred to.

Property to the income of which the said William Smith is entitled for life under the said will of John Smith deceased.

<i>Description of Property.</i>	<i>Name of Tenant.</i>	<i>Particulars of tenancy.</i>	<i>Gross annual rent or estimated gross annual rent.</i>	<i>Net annual rent or estimated net annual rent.</i>
I. FREEHOLD—			£ s. d.	£ s. d.
(1) 500, North Street } 500a, ditto }	R. Roberts	Weekly	41 12 0	32 15 0
(2) 501, ditto 501a, ditto	J. Saunders .. Thomas Brown	ditto ditto	22 2 0 15 12 0	14 15 0 10 8 0
(3) 502, ditto 502a, ditto	G. Cocks..... A. Mann	ditto ditto	20 16 0 15 12 0	13 17 0 10 8 0
(4) 503, ditto 503a, ditto	F. Jones	ditto	20 16 0	13 17 0
(5) 504, ditto 504a, ditto	C. Williams .. A. Smith ditto	ditto ditto ditto	15 12 0 20 16 0 15 12 0	10 8 0 13 17 0 10 8 0
(6) 505, ditto 505a, ditto	R. Johnson.... ditto	ditto ditto	20 16 0 15 12 0	13 17 0 10 8 0
(7) 506, ditto 506a, ditto	P. Jackson.... O. Robinson ..	ditto ditto	15 12 0 15 12 0	10 8 0 10 8 0
(8) 507, ditto	H. Brown	Monthly	30 0 0	25 5 0
Totals.....£			286 12 0	£200 19 0

The above premises are estimated to be worth in the aggregate 3,200l. or thereabouts.

II. LEASEHOLD.

(9) *A leasehold messuage, No. 101, South Street, in the county of London, of the estimated capital value of 340l. These premises are held under an Indenture of Lease, dated the 1st August, 1878, from the Duke of Bristol for the term of 99 years from the 24th June, 1878, at a rental of one peppercorn per annum if demanded. The premises are underlet to John Mann on a monthly tenancy at the yearly rent of 26l. 10s. and produce a net profit of 20l. per annum or thereabouts.*

- (10) *A leasehold messuage, No. 999, Eaton Terrace, in the county of London, of the estimated capital value of 735l. These premises are held under an Indenture of Lease dated the 1st January, 1862, from the trustees of Charles Jones, deceased, for the term of 99 years from the 25th day of December, 1861, at an apportioned yearly rental of 3l. The premises were formerly occupied by the said William Smith as and for his private residence. They are now unlet, but are estimated to produce a gross rental of 55l. per annum, and after paying all rates, taxes, assessments and other outgoings a net rental of 45l. per annum or thereabouts.*

The SECOND SCHEDULE above referred to.

Property to which the said William Smith is absolutely entitled.

<i>Description of Property.</i>	<i>Name of Tenant.</i>	<i>Particulars of tenancy.</i>	<i>Gross annual rent or estimated gross annual rent.</i>	<i>Net annual rent or estimated net annual rent.</i>
LEASEHOLDS—				
(11) 612, Long Street..	J. Mann	Monthly	£19 10 0	£16 10 0
(12) 614, ditto ..	Miss White ..	ditto	19 10 0	16 10 0
(13) 616, ditto ..	Mrs. Hodge ..	ditto	19 10 0	16 10 0
(14) 618, ditto ..	F. Jackson	ditto	19 10 0	16 10 0

The above premises are held under two Indentures of Lease, respectively dated the 8th day of January, 1877, from the trustees of Charles Jones, deceased, for the term of 80 years from the 25th day of December, 1876, at the respective rentals of 5l. 18s. 9d. per annum for 612 and 614, Long Street, and 3l. 17s. 8d. per annum for 616 and 618, Long Street, aforesaid, and the interest of the said William Smith therein is estimated to be of the value of 1,000l. or thereabouts.

FREEHOLDS to one moiety of which the said William Smith is entitled: the said premises having been conveyed to himself and to myself, the said George Smith as tenants in common.

<i>Description of Property.</i>	<i>Name of Tenant.</i>	<i>Particulars of tenancy.</i>	<i>Gross annual rent or estimated gross annual rent.</i>	<i>Net annual rent or estimated net annual rent.</i>
(15) 882, <i>Short Street.</i>	<i>F. Brown</i>	<i>Monthly</i>	<i>£26 0 0</i>	<i>£16 17 6</i>
(16) 884, <i>ditto</i>	<i>R. Jones</i>	<i>ditto</i>	<i>26 0 0</i>	<i>16 17 6</i>
(17) 886, <i>ditto</i>	<i>A. Robinson ..</i>	<i>ditto</i>	<i>26 0 0</i>	<i>16 17 6</i>
(18) 888, <i>ditto</i>	<i>Mrs. Smith ..</i>	<i>ditto</i>	<i>26 0 0</i>	<i>16 17 6</i>
<i>Totals</i>			<i>£104 0 0</i>	<i>£67 10 0</i>
<i>One moiety of which is ..</i>			<i>£52 0 0</i>	<i>£33 15 0</i>

(19) 65*l.* new 2*l.* 10*s.* per cent. Consols.

(20) 316*l.* cash standing to the credit of the said William Smith at the London and Westminster Bank, Limited (Branch).

(21) Household furniture at 999, Eaton Terrace, of the estimated value of 100*l.*

Sworn, &c.

Form of Notice of Objection by the Patient under Sub-sections (c), (e), and (f).

In Lunacy.

In the matter of John Smith, a person alleged to be of unsound mind.

I, John Smith, of 500, High Street, in the city of London, having been served with a notice of a summons for an order respecting my property, under the Lunacy Act,

1890, hereby give notice of my intention to object to such order being made.

Dated this day of , 1905.

Witness* to the signature of the
said John Smith } JOHN SMITH.
Solicitor for the said John Smith. }

Form of Notice of Objection by the Patient under Sub-section (d).

In the matter of John Smith.

*And in the matter of the Acts 53 Vict.
c. 5, and 54 & 55 Vict. c. 65.*

I, John Smith, of 500, High Street, in the city of London, having been served with a notice of a summons for an order respecting my property under the Acts 53 Vict. c. 5 and 54 & 55 Vict. c. 65, hereby give notice of my intention to object to such order being made.

Dated this day of 1905.

Witness* to the signature of the
said John Smith } JOHN SMITH.
Solicitor for the said John Smith. }

On the return of the summons before one of the Masters in Lunacy, provided that—

- (1) he is satisfied with the medical evidence;
- (2) he is satisfied that the applicant is a desirable person to be appointed receiver; and
- (3) the patient does not oppose,

* The witness to this notice must be a solicitor.

an order will be made appointing the applicant Receiver, and directions will be given as to the manner in which the patient's property is to be dealt with, the amount which is to be expended for maintenance, the securities which are to be transferred into Court, the debts which are to be satisfied, and other incidental matters. The amount of the Receiver's security (which is usually double the value of the property passing through his hands in each year) will be fixed either by the Master or at a subsequent appointment to settle the order; and it is well to bear in mind the fact that the amount of security to be given is very materially diminished if securities are transferred into Court instead of being left in the hands or the power of the Receiver.

After the hearing of the summons before the Master the applicant's solicitor must maintain an entirely passive attitude. In a week or two's time he will receive a notice that a copy of the draft order (drawn by the officials) is ready for him at the Lunacy Stationers. After buying his copy draft he will take an appointment before the official responsible for the order with a view to settling the same, and will utilise the intervening time in obtaining the information or evidence necessary to dispose of the queries on the draft. On the appointment for settling draft order the solicitor must now see that his copy agrees with that of the officials. The solicitor's copy is the one sent to the Lunacy Stationers by the officials (a) if money is to be paid or securities are to be transferred into Court, first for a blue and then for a white print; and (b) if no money is to be paid into Court for an engrossment. The print or the engrossment (as the case may be) is examined by the solicitor with the officials, and the final document is stamped (a) with a 2*l*. impressed stamp and left at the Registration Department. After the original order has been duly stamped and signed by one of the Masters in Lunacy plain prints or office copies can be at once

(a) As to stamps on orders, &c., see Rule 129 of the Lunacy Rules, 1892, in Appendix A.

obtained. The cost of plain prints and of office copy prints is the same ($1\frac{1}{2}d.$ a folio), payable in adhesive stamps: it may therefore be as well in all cases to ask that the prints bespoken should all be marked as office copies.

When an office copy of the order has been obtained the applicant's solicitor can proceed to bespeak the Receiver's bond, as hereafter explained, and to tax his costs; but the Receiver is not in a position to act until his security has been completed.

It should be noted that so soon as the Master in Lunacy makes his order, and even before it is drawn up, all affidavits, &c. (other than those under sub-section (d) the title of which never alters), should be headed as follows, viz. :—

In Lunacy.

In the matter of John Smith, a person of unsound mind, not so found by inquisition.

Should the patient have signed a notice in the prescribed form, which is duly witnessed and lodged at the Lunacy Office, it is thought that one of two positions may have been created viz. : (1) the notice may be meant merely to give the patient the right to be heard before the Master as to the disposal of his property; or (2) it may mean that the patient objects *in toto* to proceedings under the 116th section of the Lunacy Act, 1890.

In the first case, on the return of the summons, the patient's solicitor will explain that he does not object to an order being made under the summons served on his client, and does not require an inquisition, but desires to explain how, in the view of the patient, his own property should be dealt with. The authors only know, of their own knowledge, of one such case, which came before Sir Francis William Maclean when a Master in Lunacy. The learned Master was at first doubtful whether he could or ought to hear the patient's solicitor argue on the lines suggested, but ultimately decided to do so; and

it is submitted that his decision was correct, as the greater would appear to include the less, and a patient who can wholly object would seem to be entitled to do so to only a partial extent if that be his desire.

Should the patient object altogether to the proceedings, the Master will act on his own discretion on the return of the summons before him. If it is obvious that the patient is not mentally competent to form and express a wish in the matter, and there is no satisfactory evidence filed on his behalf to the contrary, the Master *may* not improbably make an order on the summons. But if there is any doubt in the case the Master *may* simply make no order (*a*), leaving the applicant to present a petition or adopt such other course as he may be advised, or he may send one of the Visitors in Lunacy to see the patient and report to him. If the Visitor in Lunacy is clearly of opinion that the patient is of unsound mind, the Master may very probably make an order in accordance with his report; on the other hand, if there is any reasonable doubt, no order will be made, and the applicant will be left (if he desires to do so) to present a petition for an inquiry.

It may be well here to mention that no affidavits filed at the Lunacy Office are ever stamped, and that office copies of affidavits are *not* allowed on taxation, as a matter of course. The general practice appears to be to allow the costs of office copies of affidavits in contested cases and of the principal affidavits in uncontested cases, provided application be made for such allowance. Office copies of affidavits are not made by the solicitor who files the same, as in Chancery or Common Law, but by the Lunacy Stationers, and the charge therefor is 2*d.* per folio and 1*d.* a sheet for the paper used.

(*a*) See Rules 1 and 5, Lunacy Rules, 1893, in Appendix A.

CHAPTER V.

PRECEDENTS OF AFFIDAVITS AND OTHER DOCUMENTS
TO BE USED WHEN PROCEEDINGS ARE ORIGINATED
BY PETITION.

Form of Petition (a).

*In Lunacy.**In the matter of Emma Smith (spinster), a
person alleged to be of unsound mind.**To the Right Honourable the Lord High Chancellor of
Great Britain.**The humble petition of Thomas Jones, of Whiteacre,
in the county of York, farmer, and Jane Smith, of
Whiteacre aforesaid, spinster, sheweth—**That Emma Smith, now residing at Blackacre, in the
county of Essex, is now and for the space of two years last
past hath been of unsound mind and altogether unfit to
govern herself or to manage her affairs, as by the affidavits
hereto annexed appears.**That your petitioner, Thomas Jones, is the maternal
nephew of the said Emma Smith, and your petitioner, Jane
Smith, is the sister of the said Emma Smith.**Your petitioners therefore humbly pray your
Lordship that the Masters in Lunacy,
or one of them, may be directed to inquire
and certify concerning the lunacy of the
said Emma Smith.**And your petitioners will ever pray, &c.**Witness* to the signing by the said* } THOMAS JONES.
Thomas Jones and Jane Smith. } JANE SMITH.

(a) See Form 4 in Schedule to Lunacy Rules, 1892, Appendix A.

* The witness must be a solicitor.

Another Form of Petition.*In Lunacy.**In the matter of John Smith, a person alleged
to be of unsound mind.**To the Right Honourable the Lord High Chancellor of
Great Britain.**The humble petition of Thomas Smith, of Littlemoor, in
the county of Essex, sheweth as follows :—*

(1) *John Smith, now residing at Littlemoor aforesaid,
is now and for one year last past has been of unsound
mind and incapable of managing himself or his
affairs.*

(2) *Your petitioner is the father of the said John Smith.*

*Your petitioner therefore humbly prays that
the Masters in Lunacy, or one of them,
may be directed to inquire concerning
the alleged lunacy of the said John
Smith.*

And your petitioner will ever pray, &c.

Witness to the signature of the } THOMAS SMITH.
said Thomas Smith.*

Form of Medical Affidavit in Support of Petition.*In Lunacy.**In the matter of John Smith, a person
alleged to be of unsound mind.*

*I, John Roe, of 5002, High Street, in the county of
London, M.D., M.R.C.S., L.R.C.P., make oath and say
as follows :—*

(1) *For the last ten years I have known and been pro-*

* *The witness must be a solicitor.*

professionally concerned as the medical attendant of the above-named John Smith, and on the 10th December, 1904, in company with I visited the said John Smith at his residence at Blackacre, in the county of Middlesex, and found*

I therefore consider he was then unfit for the management of himself or his affairs.

- (2) *I again visited the said John Smith on the 15th December, 1904, at his aforesaid residence and examined him as to the then state of his mind, and in my judgment and belief he was in a state of unsoundness of mind and incapable of managing himself or his property.*
- (3) *The unsoundness of mind of the said John Smith is rendered manifest by*

Sworn, &c.

NOTE.—In every case in which a draft affidavit is sent to a doctor for approval, he should be asked to fill in the blanks left in such affidavit by describing fully the symptoms from which the patient is suffering. The doctor will do this far more fully and effectually and will use more appropriate terms than the draftsman of the affidavit.

Another Form of Medical Affidavit.

In Lunacy.

In the matter of John Smith, a person alleged to be of unsound mind.

I, Richard Doe, of 599, Harley Street, in the county of London, M.D., M.R.C.S., L.R.C.P., make oath and say as follows :—

- (1) *By the desire of Messrs. & , of 415,*

* *The doctor who makes the second medical affidavit.*

Bedford Row, in the said county, the solicitors for Thomas Smith, the petitioner in this matter, I examined the above-named John Smith at the Asylum, situate at in the county of , on the 10th December, 1904, for the purpose of investigating the state of his mind.

- (2) *From my examination of the said John Smith, I am decidedly of opinion that he is of unsound mind and wholly incapable of the management of himself or his affairs or of the care of property, and I formed such opinion from constant observation of his case prior to my examination made on the said 10th December, 1904.*
- (3) *The said John Smith is suffering from chronic mania with many delusions. He*

He is constantly talking of and worrying himself about his delusions, and will not read or employ himself in any way.

- (4) *The said John Smith has been an inmate of the said Asylum since the 1st January, 1904, and I do not believe there is any probability of his recovering.*

Sworn, &c.

Another Form of Medical Affidavit.

In Lunacy.

In the matter of John Smith, a person alleged to be of unsound mind.

I, Richard Doe, of Littlemoor, in the county of Middlesex, M.D., M.R.C.S., L.R.C.P., make oath and say as follows:—

- (1) *I have for ten years and upwards last past been*

the medical superintendent of the Asylum, situate at Littlemoor aforesaid, for the reception of persons of unsound mind, and which contains upwards of 200 patients, and on or about the 1st day of January, 1904, I received into my care and custody the above-named John Smith as a person of unsound mind.

- (2) *The said John Smith has ever since continued and now is under my care and custody, and the conduct and discourse of the said John Smith from the time of entering the establishment until the present period has been wild, incoherent, and irrational. He is*

- (3) *I saw the said John Smith this morning, when he was decidedly of unsound mind and understanding, and altogether unfit for the management of himself or his affairs.*

Sworn, &c.

For another Form of Medical Affidavit, see Form of First Medical Affidavit under sub-section (e) of the 116th section of the Lunacy Act, 1890, p. 31.

For Form of Second Medical Affidavit, if none of the above are suitable, see Form of Second Medical Affidavit in Proceedings originated by summons, p. 33.

For Form of Affidavit of Kindred and Fortune, see Forms given in Chapter IV. in the case of Proceedings originated by Summons, pp. 38 to 54.

Form of Notice to be endorsed on the Petition (a).

To John Smith, Esq.

Take notice that a petition, of which a copy is within written, has been presented to the Lord Chancellor by Thomas Jones, of Whiteacre, in the county of York, farmer, and Jane Smith, of Whiteacre aforesaid, spinster, and that by virtue of and under the same an inquiry may be ordered to take place before one of the Masters in Lunacy as to whether you are or are not of unsound mind and incapable of managing yourself and your affairs, and that you may, in case you think fit, demand that such inquiry may, if ordered, be had before a jury, in which case a notice of such your desire must be signed by you and attested by a solicitor and filed at the office of the Masters in Lunacy, the Royal Courts of Justice, London, within seven clear days after your receipt of this notice.

Dated the 30th day of December, 1904.

(Signed)

*A member of the firm of & ,
415, Bedford Row, W.C.,
Solicitors for the Petitioner.*

Form of Affidavit of Service (b).

In Lunacy.

*In the matter of John Smith, a person
alleged to be of unsound mind.*

*I, , of 415, Bedford Row, in the county of
London, clerk to Messrs. & , of the same
place, solicitors, make oath and say as follows :—*

(1) I did, on the 2nd day of January, 1905, personally

(a) See Rule 26 of Lunacy Rules, 1892, in Appendix A., and Form 5 in Schedule thereto.

(b) See Rules 28 and 29 of the Lunacy Rules, 1892, in Appendix A., as to service.

serve the above-named John Smith with a copy of the petition in this matter, presented on the 30th day of December, 1904, to the Lord Chancellor by Thomas Jones, of Whiteacre, in the county of York, farmer, and Jane Smith, of Whiteacre, aforesaid, spinster, by delivering to and leaving with the said John Smith, at Asylum, at Littlemoor, in the county of Middlesex, a true copy of such petition.

- (2) *And I say that on the copy of the said petition was endorsed a notice in the words following, that is to say: [copy notice endorsed on petition "verbatim," including the signature thereto, &c.]*
- (3) *And I further say that such notice was signed by the said _____, a member of the firm of _____ & _____, solicitors for the petitioners, in my presence.*

Sworn, &c.

Form of Demand for a Jury by the alleged Lunatic (a).

In Lunacy.

In the matter of John Smith, a person alleged to be of unsound mind.

I, the above-named John Smith, having been, on the 2nd day of January, 1905, served with a notice of a petition for an order for an inquiry [or with a notice of the filing of a report whereon an inquiry may be ordered*] whether or not I am of unsound mind and incapable of managing myself and my affairs, do hereby demand that in the event of such an inquiry as aforesaid being ordered, the same be had before a jury.*

Dated the 5th day of January, 1905.

*Witness † to the signature of the } JOHN SMITH.
said John Smith.*

(a) See Rule 30 of Lunacy Rules, 1892, in Appendix A., and Form 7 in Schedule thereto.

* Strike out these words if they are inapplicable.

† The witness to this notice must be a solicitor.

Under and by virtue of the provisions contained in Part III. of the Lunacy Act, 1890 (sections 90 to 100), the Inquisition *must* take place before a jury in the following cases, viz. :—

- (a) Where the alleged lunatic demands a jury, unless the Judge in Lunacy is satisfied by personal examination that the alleged lunatic is not mentally competent to form and express a wish for an Inquisition before a jury;
- (b) Where the alleged lunatic is resident out of the jurisdiction; and
- (c) Where the Masters upon consideration of the evidence certify that in their opinion a jury is expedient or desirable.

And an Inquisition will take place before one of the Masters alone without a jury in all other cases; *i.e.*, where the alleged lunatic does not ask for one, *or* where he does ask for one, and the Judge is satisfied from a personal examination that he is not mentally competent to form and express a wish on the subject.

Under section 100 of the Lunacy Act, 1890 (*a*), where the Commissioners in Lunacy report to the Lord Chancellor that the property of a person detained or taken charge of as a lunatic, but not so found by Inquisition, is not duly protected, &c., the report is to be filed with the Masters, and is to be deemed to be an application for an Inquisition, supported by evidence, and to be conducted as therein mentioned.

Before, however, dealing with the practice on an Inquisition, it will be well to return to the moment when the petition has been signed and witnessed, and the two medical affidavits in support thereof, together with the affidavit of kindred and fortune have been sworn. The petition will be presented by

(a) See Rule 27 of Lunacy Rules, 1892, in Appendix A., and Form 6 in Schedule thereto.

being lodged, together with the other documents, at the Registration Department of the Lunacy Office (Room 210), and a fair copy of the petition for the use of the Lunacy Office must also be lodged there at the same time. After the original has been stamped with the official Lunacy seal, it will be handed back to the solicitors for the Petitioner in order that they may arrange for service on the alleged lunatic. As soon as this has been effected an affidavit of service should be made and lodged, together with the original petition, at the Registration Department; and seven clear days after the date of the service (the time limited for the alleged lunatic to object thereto), the various documents which have been so lodged as aforesaid will be forwarded by the Lunacy Officials to the Lords Justices. Should their Lordships deem an Inquiry necessary, notice thereof will be given to the Petitioner's solicitors, and the Lunacy Officials will proceed to draw up the order directing the Inquiry, which must be stamped by the Petitioner's solicitors with a 2/ stamp. A few days later the solicitors will obtain from the stationers to the Lunacy Office, at a cost of a few shillings, a precept directed to themselves, signed by one of the Masters in Lunacy and under their official seal, informing them of the day and time when, and the place where, it is proposed to hold the Inquiry. In the absence of a jury (with reference to which it will be necessary to make some special remarks later on), the Inquiry is nearly always held at the place where the lunatic is residing. As soon as matters have progressed to this stage, and assuming the case to be dealt with without a jury, the solicitor for the Petitioner will bespeak office copies of all the evidence already filed at the Lunacy Office, and will obtain and serve subpoenas on the doctors and on any other necessary witnesses.

The subpoenas are issued free of charge (except as to a few pence, the actual cost of the forms), and they "Will and require" the witness to attend on the day and at the time and place therein mentioned, "then and there upon your oath to testify the truth according to your knowledge touching

“ the alleged lunacy of the said John Smith, and of all such matters as shall be demanded of you by virtue of the said commission and order. Hereof fail not at your peril.” The subpoena is signed by the Master who proposes to hold the Inquiry, and has the official seal attached thereto.

Any doctor served with a subpoena is entitled to be paid one guinea conduct money, and his first-class return railway fare; other witnesses (if any) are entitled to one guinea conduct money, and to first, second, or third-class return railway fares, according to their station in life. As a rule, however, in an uncontested case it is unnecessary to subpoena any person other than the doctors, although it may be desirable that some member or members of the family shall be present.

The solicitor to the Petitioner will travel down to the place where the Inquiry is to be held half an hour before the Master and his clerk arrive. He will arrange for a room with a fair-sized table and writing materials to be in readiness, and he will ask the two doctors to refresh their memories by reading through the drafts of the affidavits made by themselves.

On his arrival the Master will usually at once see the alleged lunatic in a separate room by himself, and will inform him (or her) of his (or her) right to be present whilst the Inquiry is held. On his return to the room selected for the Inquiry the Master will himself examine both the doctors, after they have been sworn, using their affidavits as proofs, and his clerk will take down a note of their evidence. If no member of the family is present, the solicitor for the Petitioner will be expected to be in a position to answer—but not on oath—any general question as to the family and fortune of the alleged lunatic, and the past and future arrangements for maintenance. When the Master has concluded the Inquiry he signs a document termed the “Inquisition,” certifying either that the alleged lunatic is of sound or of unsound mind. It should be mentioned that occasionally either the members of the family or the Master, or both, may

in special cases desire that the evidence be given *visâ voce* at the Inquiry before the Master as to the lunatic's kindred and fortune, but usually the matter is carried through subsequently by affidavit evidence.

Should the Inquiry be directed to take place before a Master and a jury, the precept above referred to will be addressed to the Sheriff of the district in which the Inquiry is to take place instead of to the solicitor to the Petitioner, and such precept will have to be served by the solicitor on the Sheriff, who will proceed to empanel the jury. The Inquiry will usually be held in the town or village where the lunatic resides, and as near to his residence as possible, some suitable hall or large room being selected for the purpose. A jury must not exceed twenty-four in number, and although they need not be unanimous in their verdict, twelve at least must be agreed thereon.

In any case in which a jury is empanelled it is usual and proper to brief Counsel, by whose advice the Petitioner will be guided as to the witnesses to be called and the manner in which his case shall be presented to the Court: and here it is only necessary to mention that under sect. 99 of the Lunacy Act, 1890, "the person executing an Inquisition "with a jury" (*i.e.*, the Master) "shall while so employed "have all the powers, authorities, and discretion of a Judge "of the High Court," and that the case will be tried as nearly as possible in the same manner as a Common Law action, the Petitioner being in the position of a plaintiff and the alleged lunatic of a defendant.

Should the lunacy of the patient be established, all subsequent affidavits and summonses will be headed as follows:—

In Lunacy.

*In the matter of John Smith, a person of
unsound mind.*

Form of Summons to be issued after Inquisition (a).*In Lunacy.**In the matter of Emma Smith (spinster),
a person of unsound mind.*

Let all parties concerned attend the Master in Chambers, at the Royal Courts of Justice, London, on Thursday the 2nd day of March, 1905, at 12.30 o'clock in the afternoon, on the hearing of an application on the part of John Smith, of Whiteacre, in the county of York, farmer, and Jane Smith, of the same place, spinster, that—

- (1) *The said John Smith be appointed committee of the estate of the above-named Emma Smith.*
- (2) *The said Jane Smith may be appointed committee of the person of the said Emma Smith.*
- (3) *Mary Smith and Eliza Smith, two of the next of kin, and Thomas Smith, the heir-at-law of the said Emma Smith, may be at liberty to attend by one solicitor in this matter generally.*
- (4) *The whole net income of the said Emma Smith, not exceeding £500 per annum, may be allowed for her maintenance as from the 30th day of December, 1904, according to the following scheme, viz. :—*

	£	s.	d.
<i>Rent, rates and taxes</i>	150	0	0
<i>Housekeeping expenses</i>	150	0	0
<i>Servants' wages</i>	60	0	0
<i>Clothing</i>	40	0	0
<i>Change of air</i>	50	0	0
<i>Incidental expenses, including medical attendance and carriage exercise and expenses of committee of person in visiting</i>	50	0	0
	<u>£500</u>	<u>0</u>	<u>0</u>

- (5) *The persons named in the schedule hereto may be directed to make the lodgments mentioned therein.*

(a) See Rules 31—35 of Lunacy Rules, 1892, in Appendix A.

- (6) *The funds in Court may be dealt with as directed in the schedule hereto.*
- (7) *The necessary directions may be given and orders made to enable the said John Smith, as committee of the estate, to manage and let the real and leasehold estate belonging to the said Emma Smith and situate at Littlemoor in the county of Middlesex.*
- (8) *The reasonable and proper costs of the applicants of obtaining and prosecuting the order for the Inquiry in this matter, and their like costs and those of the said Mary Smith, Eliza Smith, and Thomas Smith, of, incident to, and consequent upon this application, may be taxed.*

Dated this 23rd day of February, 1905.

This summons was issued by Messrs. & , of No. 415, Bedford Row, in the county of London, solicitors for the applicants.

To

The SCHEDULE above referred to.

LODGMENT AND PAYMENT SCHEDULE.

In the matter of Emma Smith, spinster, a person of unsound mind.

I.—LODGMENT.

Particulars of Funds to be Lodged.	Persons to make the Lodgment.	Amounts.	
		Money.	Securities.
		£ s. d.	£ s. d.
Cash to the credit of the said Emma Smith in the books of the Post Office Savings Bank to the account designated " " book number " " and any interest.	The proper officer of the said Post Office Savings Bank.	100 0 0	
Great Western Railway £4 per cent. Debenture Stock.	The Secretary or other the proper officer of the Company.	..	5,000 0 0

II.—PAYMENT.

Funds when lodged as above.

<i>Particulars of Payments, Transfers or other Operations ordered.</i>	<i>Payees and Transferees or Separate Accounts.</i>	<i>Amounts.</i>	
		<i>Money.</i>	<i>Securities.</i>
		£ s. d.	£ s. d.
<i>Out of cash and any interest:—</i>			
<i>Pay taxed costs</i>	<i>Messrs. & .</i>		
<i>Pay balance of cash and any interest.</i>	<i>John Smith, the committee of the estate.</i>		
<i>Pay interest on £5,000 Great Western Railway £4 per cent. Debenture Stock.</i>	<i>The said John Smith.</i>		

Another Form of Summons.*In Lunacy.*

In the matter of John Smith, a person of unsound mind.

Let all parties concerned attend the Master in Chambers, at the Royal Courts of Justice, London, on Friday, the 3rd day of March, 1905, at 11.30 o'clock in the forenoon, on the hearing of an application on the part of Thomas Smith, of Blackacre, in the county of Essex, Esquire, the father of the above-named John Smith, that—

- (1) The applicant may be appointed committee of the person and estate of the said John Smith.*
- (2) 200l. per annum may be allowed for the maintenance of the said John Smith as from the 30th November, 1904, in accordance with the scheme contained in the applicant's affidavit sworn in this matter on the 28th December, 1904.*
- (3) Provision may be made for the payment of the debts due and owing by the said John Smith, referred to in the said affidavit of the applicant and amounting in the aggregate to £325.*

- (4) *The sum of £4,000 New Consols and £3,500 Midland Railway £4 per Cent. Preference Stock, belonging to the said John Smith, may be transferred into Court and the dividends thereon may from time to time be paid to the applicant as committee.*
- (5) *The reasonable costs, charges and expenses of the applicant, of, incident to, and consequent upon the Inquisition and the order made hereon, may be taxed as between solicitor and client and paid by the applicant out of any moneys in his hands available for that purpose.*
- (6) *Any balance appearing due from the committee on his accounts may from time to time be paid into Court and invested in India £2 10s. per Cent. Stock, and the dividends thereon may from time to time be accumulated and invested in like stock.*

Dated the 23rd day of February, 1905.

This summons was issued by Messrs. _____ & _____, of No. 415, Bedford Row, in the county of London, solicitors for the applicant.

To

Consent of Committee of Estate to act.

In Lunacy.

In the matter of Mary Smith (spinster), a person of unsound mind.

I, Thomas Smith, of Blackacre, in the county of Essex, Esquire, hereby consent to be appointed and to act as the committee of the estate of the above-named Mary Smith, and I am willing and hereby undertake to give or provide the usual security, viz., my own bond with two sureties or such other security as may be required for duly accounting for such estate.

Dated this _____ day of _____, 1905.

THOMAS SMITH.

Consent of Committee of Person to act.*In Lunacy.*

*In the matter of Mary Smith (spinster), a
person of unsound mind.*

*I, Jane Smith, of Blackacre, in the county of Essex,
spinster, do hereby consent to be appointed and to act as
committee of the person of the above-named Mary Smith,
and I hereby undertake to visit her once at least in every
three months, and at such other times as may be required,
and see that she is duly attended to and has all necessary
enjoyments and comforts.*

Dated this day of , 1905.

JANE SMITH.

**Consent of Committee of Person to act where the Lunatic resides
with him (or her).***In Lunacy.*

*In the matter of Mary Smith (spinster), a
person of unsound mind.*

*I, Jane Smith, of Blackacre, in the county of Essex,
spinster, do hereby consent to be appointed and to act as the
committee of the person of the above-named Mary Smith,
and I hereby undertake, so long as she shall reside with me,
that I will take due care of her and see that she has all
necessary enjoyments and comforts, and in the event of her
residing elsewhere, then I undertake to visit her once at least
in every three months, and at such other times as may
be required, and see that she is duly attended to and has all
necessary enjoyments and comforts.*

Dated this day of , 1905.

JANE SMITH.

Form of Affidavit of Fitness of Committee of Estate.

In Lunacy.

*In the matter of Mary Smith (spinster), a
person of unsound mind.*

*I, John Johnson, of 5002, Elvira Road, in the county of
London, merchant, make oath and say as follows :—*

- (1) I have for the last ten years known and been
intimately acquainted with Thomas Smith, of Black-
acre, in the county of Essex, chemist, who is the
father of the above-named Mary Smith.*
- (2) The said Thomas Smith is a highly respectable and
responsible person, of good credit, and greatly
esteemed in the neighbourhood in which he so resides
and carries on business as aforesaid, and of good
business habits. The said Thomas Smith is also of
a kind and humane disposition.*
- (3) To the best of my knowledge, information and belief,
the said Thomas Smith is well qualified in every
respect to be appointed committee of the estate of the
above-named Mary Smith, and he is fully able to
give the requisite security for the due protection of
her estate.*

Sworn, &c.

Form of Affidavit of Fitness of Committee of Person.

In Lunacy.

*In the matter of Mary Smith (spinster), a
person of unsound mind.*

*I, Helen Jones, of 763, High Street, in the city
of London, wife of Thomas Jones, of the same place,
Esquire, make oath and say as follows :—*

- (1) I have for fifteen years last past known and been
intimately acquainted with Jane Smith, of Black-
acre, in the county of Essex, spinster, who is a sister
of the above-named Mary Smith.*

- (2) *The said Jane Smith is a highly respectable and responsible person, of good credit, and greatly esteemed in the neighbourhood in which she so resides as aforesaid. The said Jane Smith is also of a kind and humane disposition, and of careful and considerate habits.*
- (3) *To the best of my knowledge, information and belief, the said Jane Smith is well qualified in every respect to be appointed committee of the person of the said Mary Smith.*

Sworn, &c.

Formerly, and under the old practice, the Masters in Lunacy drew up a lengthy document termed indifferently a Report or Certificate, which was very similar in many respects to a Master's certificate in Chancery. In it all the important facts relating to the particular case were recited, and recommendations were made as to the persons to be appointed committees, the amount to be allowed for maintenance, and other incidental and consequential matters. This Report or Certificate was approved and signed by one of the Lords Justices, and then an order was drawn up on the Report, and so as to carry out the proposals contained therein.

Section 27 of the Lunacy Act, 1891, has made this cumbrous and expensive procedure most unusual, and the general present practice is to at once draw up an order (made and signed by one of the Masters in Lunacy) after the return of the summons for directions before him. This order is drawn up in an exactly similar manner as an order made on summons under the 116th section of the Lunacy Act, 1890. See Chap. IV. p. 56.

It may be well before closing this chapter to refer to some of the 1892 Lunacy Rules, and also to the above-mentioned section of the Lunacy Act, 1891.

Rule 18 provides that every Petition for an order for

Inquisition for a Traverse, and for a Supersedeas, and the evidence in support thereof, shall be filed in the Master's office, and shall be brought before the Judge without previous consideration by the Masters.

Under Rule 23 all matters which require to be brought before the Judge shall be brought before him out of Court. The Judge may make an order upon any summons or petition without attendance of Counsel, Solicitors, or parties, or after such attendance, or may adjourn the summons or petition into Court, or refer the same to the Masters for inquiry. Any matter may be adjourned from Court for consideration by the Judge out of Court.

Rule 24 provides that the Judge and Masters respectively may direct any person to be served with notice of any application, and may dispense with service on any person.

Section 27 of the Lunacy Act, 1891, provides that, subject to Rules in Lunacy, the jurisdiction of the Judge in Lunacy as regards administration and management may be exercised by the Masters, and every order of a Master in that behalf shall take effect unless annulled or varied by the Judge in Lunacy.

CHAPTER VI.

ON COMPLETING THE RECEIVER'S OR COMMITTEE'S
SECURITY AND OTHER INCIDENTAL MATTERS, INCLUDING
ACCOUNTS AND AFFIDAVITS IN LIEU OF ACCOUNTS.

A RECEIVER or committee is not in a position to act merely because an order appointing him has been drawn up and passed and entered. Before he can give valid receipts for the patient's money, or take any step whatever in the matter, he must complete his security (*a*). Such security usually consists of a bond with two sureties in a penal sum double the value of the whole of the patient's money which can possibly be in the hands of the committee or receiver in any one year. Thus, if the annual income amounted in a given case to 200*l.*, and all the securities or capital moneys had been paid into Court, so that the receiver or committee could not deal with them, the security would usually be fixed at 400*l.* The amount of the security to be given will either be fixed by the Master on the return of the summons before him, or it will be settled later on by the official who draws up the order. The bond is drawn and engrossed at the Lunacy Office, and is in a regular stereotyped form.

(*a*) As to accounts, security, &c., see Rules 70—81 of Lunacy Rules, 1892, in Appendix A.

Form of Bond entered into by a Receiver and a Guarantee Society as his Sureties.

In Lunacy.

In the matter of John Smith, a person of unsound mind, not so found by Inquisition.

Know all men by these presents that we, Thomas Smith, of Blackacre, in the county of Essex, Esquire, and _____, Limited, whose registered office is situate at _____, in the county of London (hereinafter called "the Society"), are bound and firmly obliged to our Sovereign Lord Edward the Seventh, by the grace of God of the United Kingdom King, Defender of the Faith, in the sum of 400l. of good and lawful money of Great Britain to be paid to the same Lord the King, his heirs or successors, to which payment well and truly to be made I, the said Thomas Smith, for myself, my heirs, executors and administrators, and every of them, and we the Society, for ourselves and our successors, do bind ourselves jointly and severally firmly by these presents.

Scaled with the seal of the said Thomas Smith and also with the common seal of the said Society this day of _____ in the _____ year of the reign of our said Lord and in the year of our Lord 190 _____.

The condition of the above-written obligation is such that whereas by an Order dated the _____ day of _____ made in the matter of the above-named John Smith, residing at Littlemoor Asylum, in the county of Middlesex, the said Thomas Smith was authorized, upon completing such security as the Masters in Lunacy should approve of, to exercise such of the powers of a committee of the estate of the said John Smith as thereby directed; and whereas the said Thomas Smith has proposed the said Society as a surety to our

Sovereign Lord the King for the due performance of the duties of him the said Thomas Smith, as the receiver of the estate of the said John Smith (at an annual premium of two pounds, the first payment whereof has been made prior to the execution hereof), and the Society has been approved of as such surety by the Masters in Lunacy as appears by the affixing of the seal of the said Masters upon the endorsement of these presents : If, therefore, the said Thomas Smith shall yearly, or oftener if he be thereunto required, make a just and true account of all and singular the rents, issues and profits of the real estate of the said John Smith, and also of his personal estate and the profits thereof as now are or hereafter shall come to his hands, custody or possession, or which he may receive out of or concerning the said estate ; and shall carefully observe, perform and keep the orders and directions of the Lord Chancellor of Great Britain or the Lords Justices or other the person or persons for the time being entrusted by the King's sign manual or his successors with the care and commitment of the custody of the persons and estates of idiots, lunatics and persons of unsound mind or any of them, or of the said Masters for the time being made or hereafter to be made touching or concerning the said John Smith or his estate, and touching all such moneys as shall yearly remain due upon the foot of the account duly taken by the said Masters and filed in the office for that purpose appointed ; and shall be careful to see the houses, buildings and structures of the said John Smith to be well and sufficiently repaired and so kept and maintained during the continuance of the said grant ; and shall carefully preserve and keep all the deeds, evidences and writings touching the manors, messuages, lands, tenements, hereditaments and estates of the said John Smith as now are or hereafter shall come to his hands, custody or possession ; and shall in all things demean himself as a careful and faithful receiver of the estate of the said John Smith : then the said obligation to be void, or else the same to stand, remain and be in full force and virtue : Provided always, that if the said Thomas

*Smith do not within fifteen days after the day of
in each and every subsequent year, pay or cause to
be paid at the office of the society the annual premium or
sum of two pounds, then the society shall at any time after
such default be at liberty to apply by summons to the said
Masters to be relieved from all further liability as such
surety as aforesaid: Provided always, that a certificate
or certificates under the seal of the said Masters of the
amount which the said Thomas Smith as such receiver as
aforesaid is liable to pay and has not paid, shall be sufficient
and conclusive evidence against the said Thomas Smith,
his heirs, executors and administrators, and against the
society, of the truth of the contents of the said certificate or
certificates, and that the bond has become forfeited to the
amount of the sum stated in such certificate or certificates,
and that such sum forms a valid and binding claim not only
against the said Thomas Smith, his heirs, executors and
administrators, but also against the society and the funds
and property thereof: Provided alwavs, and it is further
agreed between the said Thomas Smith and the society, that
the said Thomas Smith, on being discharged from his office
of or ceasing to act as such receiver as aforesaid, shall forth-
with give notice in writing thereof to the society.*

Signed, sealed and delivered, &c.

Before the bond is prepared the solicitor, acting for the Receiver or Committee, will have to bespeak the same by filling up and lodging one of the following forms (according to the circumstances of the case), together with an office copy of the order appointing the Receiver or Committee at the Lunacy Office.

Form of Instructions for Security by Receiver.**In Lunacy.**In the matter of John Smith, a person of unsound mind, not so found by inquisition.***INSTRUCTIONS FOR SECURITY OF RECEIVER.***The Receiver is Thomas Smith, of Blackacre, in the county of Essex, Esquire. The sureties proposed are John Johnson, of 1003, High Street, in the county of London, merchant, and Thomas Jones, of 1001, New Inn, in the same county, architect.**The present residence of the lunatic is at Littlemoor Asylum, in the county of Middlesex.**The date of the order (left herewith) appointing the Receiver is the 18th December, 1904.**Dated this 9th day of January, 1905.**(Signed)**A member of the firm of & ,
415, Bedford Row, W.C.,
Solicitors for the Receiver.**Penalty, £400.*

* *A lithographed form of these instructions ready for use can be obtained from the Lunacy Office.*

In cases under sub-section (d) the instructions will be headed as follows:—

“In the matter of John Smith.

“And in the matter of the Acts 53 Vict. cap. 5, and 54 & 55 Vict. cap. 65.”

Form of Instructions for Security by Committee.*

In Lunacy.

*In the matter of John Smith, a person of
unsound mind.*

INSTRUCTIONS FOR SECURITY AND GRANT.

The order for inquiry describes the above-named John Smith as residing at Littlemoor Asylum, in the county of Middlesex.

The inquiry was held at Littlemoor Asylum aforesaid, on the 10th November, 1904.

The verdict was that the said John Smith was a person of unsound mind.

The committee of the person is Henry Smith, of Whiteacre, in the county of York, Esquire.

The committee of the estate is Thomas Smith, of Blackacre, in the county of Essex, Esquire.

The sureties proposed are John Johnson, of 1003, High Street, in the county of London, merchant, and Thomas Jones, of 1001, New Inn, in the same county, architect.

The present residence of the lunatic is Littlemoor Asylum, aforesaid.

The date of the order (left herewith), appointing committees, &c., is the 18th December, 1904.

Dated this 9th day of January, 1905.

(Signed)

*A member of the firm of & ,
415, Bedford Row, W.C.,
Solicitors to the Committee.*

* A lithographed form of these instructions ready for use can be obtained from the Lunacy Office.

A few days after he has lodged his instructions for security the solicitor for the Receiver or Committee will obtain from the stationers to the Lunacy Office, on payment of some 13s. or 14s., the bond, together with forms of affidavits of due execution and solvency of sureties. The bond must be executed by the Receiver or Committee (as the case may be), and also by the sureties, in each case in the presence of two witnesses, and one of each of such sets of two witnesses will have to make an affidavit of due execution to which the bond is exhibited. It is also necessary that the sureties should both make an affidavit of solvency.

Form of Affidavit of due Execution.

In Lunacy.

In the matter of John Smith, a person of unsound mind [not so found by inquisition].*

I, _____, of 415, Bedford Row, in the county of London, clerk to Messrs. _____ & _____, of the same place, solicitors, make oath and say that _____, of No. 415, Bedford Row, aforesaid, and I, this deponent, were present, and did see the bond hereunto annexed marked with the letter "A," and bearing date the fifth day of April one thousand nine hundred and five, in the penalty of four hundred pounds, duly signed, sealed and delivered, by the therein-named Thomas Smith, John Johnson, and Thomas Jones, as their respective act and deed to the use of His present Majesty King Edward VII., and that to the execution thereof by the said Thomas Smith, John Johnson, and Thomas Jones, respectively, the said _____ and I, this deponent, did subscribe our respective names as witnesses thereto.

Suorn, &c.

* Strike out these words if proceedings were commenced by petition; and if the case is one under sub-section (d), alter the formal heading accordingly.

Form of Affidavit of Sufficiency of Sureties.

In Lunacy.

In the matter of John Smith, a person of unsound mind [not so found by inquisition].*

We, John Johnson, of 1003, High Street, in the county of London, merchant, and Thomas Jones, of 1001, New Inn, in the same county, architect, each of us speaking for ourselves only, severally make oath and say :—

- (1) And first I, this deponent, John Johnson, for myself, say that I am really and truly worth the sum of two hundred pounds of lawful money of Great Britain over and besides what is sufficient to pay and discharge all my just debts.*
- (2) And I, this deponent, Thomas Jones, for myself, say that I am really and truly worth the sum of two hundred pounds of lawful money over and besides what is sufficient to pay and discharge all my just debts.*

Sworn, &c.

As soon as the bond has been duly executed and attested and affidavits of due execution and solvency have been sworn, the solicitor for the Committee or Receiver (as the case may be) will lodge the documents at the Lunacy Office. Assuming the papers to be in order, a certificate of completion of security will now be prepared by the Lunacy Officials, the engrossment of which is signed by the Master and stamped by the solicitor with a 1*l.* stamp. The solicitor when stamping and lodging the original bespeaks an office copy, which he can obtain a few days later.

* *Strike out these words if proceedings were commenced by petition ; and if the case is one under sub-section (d), alter the formal heading accordingly.*

Form of Certificate of Completion of Security.**In Lunacy.**In the matter of John Smith, a person of unsound mind, not so found by inquisition.*

Whereas, pursuant to an order in this matter dated the 11th day of January, 1904, Thomas Smith, of Blackacre, in the county of Essex, Esquire, was authorised upon completing such security as the Masters in Lunacy should approve of, to exercise such of the powers of a Committee of the estate of the said John Smith as thereby directed, now it is hereby certified under the seal of the said Masters as follows:—

- (1) That the said Thomas Smith has, together with John Johnson, of 1003, High Street, in the county of London, merchant, and Thomas Jones, of 1001, New Inn, in the same county, architect, his sureties, entered into a bond, dated the day of , 1905, in the penal sum of £400 duly executed by them for answering the estate of the said John Smith, and accounting for the rents, profits, and produce thereof, and for the faithful discharge of his duties as authorised and directed by the said order.*
- (2) That the said bond of the said Thomas Smith and his said sureties has been approved of by the said Masters and remains deposited in their office, and that the security of the said Thomas Smith is completed.*

As soon as he obtains the office copy certificate of completion of security, the Committee or Receiver (as the case

* The heading and the body of this form will be drawn by the officials in a slightly different form where the security has been given by a Committee or by a person appointed Receiver under sub-section (d).

may be) is in a position to act, and is legally entitled to manage the lunatic's estate, and to carry out the order made by the Master. He is, however, in a position of trust, and must render an account of his stewardship by furnishing periodical accounts or affidavits in lieu of accounts, as may be directed. How often these accounts or affidavits are to be furnished, and over what periods they are to extend, are matters which the official drawing up the original order made by the Master will determine and direct.

Form of Affidavit* to be sworn by a Committee of the Estate in lieu of an Account.

In Lunacy.

In the matter of John Smith, a person of unsound mind.

I, Thomas Smith, of Blackacre, in the county of Essex, Esquire, the Committee of the estate of the said John Smith, make oath and say as follows :—

- (1) *The fortune of the said John Smith consists of the following particulars, viz. :—†*
- (2) *The net income of the fortune of the said John Smith amounts to £ a year or thereabouts.*
- (3) *Under an order dated the day of 1904, the whole net income of the said John Smith, not exceeding £ a year, is to be allowed for his maintenance from the day of 1904.*
- (4) *‡ From the time of my appointment as such Committee, I have received a total sum of £ only, and I*

* A printed form of this affidavit and the three following ones can be obtained at Room 210 of the Lunacy Office. But such forms must not be sworn and will not be accepted if sworn; they are only to be used as precedents.

† State briefly the fortune.

‡ The fourth paragraph is to be used in first affidavits only. Subsequent affidavits must show what income has been spent in maintenance and what for any other purpose directed by Order or otherwise.

have thereout paid £ for the maintenance of the said John Smith, and I have applied the balance in paying the debts and taxed costs pursuant to the said order.

- (5) *John Johnson and Thomas Jones, my sureties, are living, and neither of them has been declared bankrupt nor compounded with his creditors. [If security has been given by a Guarantee Society, paragraph 5 will run as follows: "All premiums due to the Guarantee Society, under the bond dated 1904, have been paid."]*

Sworn, &c.

Another Form of Affidavit in lieu of Account by the Committee of the Estate.

In Lunacy.

In the matter of John Smith, a person of unsound mind.

I, Thomas Smith, of Blackacre, in the county of Essex, Esquire, the Committee of the estate of the said John Smith, make oath and say as follows:—

- (1) *The fortune of the said John Smith produces a net income of £ a year or thereabouts, made up as follows, viz. :—*
- (2) *Under an order dated 1904, £ a year is allowed for the maintenance of the said John Smith, from the day of 1904 [or "Under an order dated 1904, the whole net income not exceeding £ a year is allowed for the maintenance of the said John Smith from the day of 1904."]*
- (3) *I have in the schedule hereto set out a just and true account of the several sums of money which have been received, retained, and paid by me or by any other person or persons whomsoever, by my order or for*

my use as such Committee, from the day
of to the day of , and the several
sums in the said schedule mentioned to have been
retained, paid and allowed, have been really retained,
paid and allowed for the several purposes in the said
schedule mentioned, and to the best of my knowledge
and belief all things therein stated are true and there
is no error or omission in the said schedule.

- (4) *John Johnson and Thomas Jones, my sureties, are living, and neither of them has been declared bankrupt nor compounded with his creditors.*

[If security has been given by a Guarantee Society, paragraph 4 will run as follows:
"All premiums due to the Guarantee Society under the bond dated , 1904, have been paid."]

The SCHEDULE above referred to.

RECEIPTS.

<i>Premises.</i>	<i>Tenants' Names.</i>	<i>Annual Rents.</i>	<i>When Due.</i>	<i>Amount Received.</i>	<i>Remarks.</i>
				£	

SUMMARY OF RECEIPTS AND PAYMENTS.

<i>Receipts.</i>						£	s.	d.
<i>Rents</i>	...	...	...	...	...	£		
<i>General Receipts</i>	...	...	...	...	...	£		
<i>Total receipts</i>						...	£	
<i>Payments.</i>								
<i>Maintenance</i>	...	...	...	...	...	£		
<i>General Payments</i>	...	...	...	...	...	£		
<i>Total Payments</i>						...	£	
<i>Balance due [to or] from Thomas Smith</i>						...	£	
<i>Sworn, &c.</i>								

Form of Affidavit in lieu of an Account by a Receiver appointed under the 116th Section of the Lunacy Act, 1890.

In Lunacy.

*In the matter of John Smith, a person of unsound mind, not so found by inquisition.**

I, Thomas Smith, of Blackacre, in the county of Essex, Esquire, the person appointed by an order in this matter dated the day of , 1904, to exercise such of the powers of a Committee of the estate as therein mentioned, make oath and say as follows :—

- (1) The fortune of the said John Smith consists of the following particulars, viz. :—*
- (2) The net income of the fortune of the said John Smith amounts to £ a year or thereabouts.*
- (3) Under the said order the whole net income of the said John Smith, not exceeding £ a year, is allowed for his maintenance from the day of 1904.*

* If the Receiver is appointed under sub-section (d), the title will be as follows :—

“In the matter of John Smith.

“And in the matter of the Acts 53 Vict. c. 5, and 54 & 55 Vict. c. 65.”

- (4) *From* the time of my appointment under the said order I have received a total sum of £ , and I have thereout paid £ for the maintenance of the said John Smith, and I have applied the balance in paying the debts and taxed costs pursuant to the said order.*
- (5) *John Johnson and Thomas Jones, my sureties, are living, and neither of them has been declared bankrupt, nor compounded with his creditors.*

[If security has been given by a guarantee society, paragraph 5 will run as follows:
"All premiums due to the Guarantee Society, under the bond dated , 1904, have been paid."]

Sworn, &c.

Another Form of Affidavit in Lieu of an Account by a Receiver.

In Lunacy.

In the matter of John Smith, a person of unsound mind, not so found by inquisition.†

I, Thomas Smith, of Blackacre, in the county of Essex, Esquire, the person appointed by order, dated the day of , 1904, to exercise such of the powers of a Committee of the estate as therein mentioned, make oath and say as follows :—

[This affidavit will be in exactly the same form as the one by a Committee on pp. 88 to 91, except that the words "*such person appointed as aforesaid,*" should be substituted for the words "*such Committee*" in the 3rd paragraph of the affidavit.]

* *The fourth paragraph is to be used in first affidavits only. Subsequent affidavits must show what income has been spent in maintenance and what for any other purpose directed by order or otherwise.*

† *If the Receiver is appointed under sub-section (d), the title should be altered as in the note to the last form.*

Form of Account by Receiver or Committee.

In Lunacy. In the matter of John Smith, a person of unsound mind [not so found by inquisition].*
The third account of Thomas Smith, the Committee [or the Receiver] of the estate appointed under order dated the 5th June, 1900, of his Receipts and of his Payments and Allowances as such Committee [or Receiver] from the 1st January, 1904, to the 31st December, 1905 (both days inclusive).

RECEIPTS FOR RENTS.

No. of Item.	Premises.	Tenants.	Arrears at 1st January, 1904.	Annual Rents.	Rents Received.	Deductions for Income Tax.	Arrears at 31st December, 1905.	Observations.
			£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	
1	NORWICH.							
2	House.	J. Holmes.	15 0 0	+30 0 0	30 0 0	2 0 0	15 0 0	
3	Stables and Garden.	P. Thomas.	5 0 0	10 0 0	10 0 0	0 13 4	—	
	Farm.	S. Hay.	—	—	5 0 0	0 6 8	—	
4	IPSWICH.							
5	House.	S. Hobb.	20 0 0	40 0 0	40 0 0	2 13 4	20 0 0	
	Mathouses.	F. Stiles.	5 0 0	10 0 0	15 0 0	1 0 0	—	
6	BUNGAY.							
7	Field.	R. Jones.	7 0 0	14 0 0	21 0 0	1 8 0	—	
8	Cottage.	T. Simons.	2 0 0	4 0 0	2 0 0	0 2 8	4 0 0	
9	gc.	gc.	272 3 4	794 3 6	920 7 2	80 0 0	253 5 9	
					80 0 0	Income Tax deducted.		
					840 7 2	Net Amount received.		
				£				

* Strike out these words if inapplicable, and adapt the title to meet the circumstances of the case.

+ The gross amount of rent received from each tenant in respect of each holding for the whole period of the account is to be entered here in one sum opposite each tenant's name.

Hay succeeds
Thomas from Mid-
summer, 1904, at
the same rent, £10.

GENERAL RECEIPTS.

	£	s.	d.
<i>By balance on second account</i>	18	7	6
<i>„ dividends on £1,500 Great Western Railway</i>			
<i>£5 per cent. Preference Stock:</i>	£	s.	d.
<i>Due 1st January, 1904</i>	37	10	0
<i>„ 1st July, 1904</i>	37	10	0
<i>„ 1st January, 1905</i>	37	10	0
<i>„ 1st July, 1905</i>	37	10	0
	150	0	0
<i>By interest on John Jefferson's mortgage of</i>			
<i>£2,500 at £5 per cent. per annum:</i>	£	s.	d.
<i>To 1st March, 1904</i>	62	10	0
<i>„ 1st September, 1904</i>	62	10	0
<i>„ 1st March, 1905</i>	62	10	0
<i>„ 1st September, 1905</i>	62	10	0
	250	0	0
<i>By dividends on £1,869 13s. 2d. India £3½ per</i>			
<i>cent. Stock:</i>	£	s.	d.
<i>Due 5th January, 1904</i>	15	16	4
<i>„ 5th April, 1904</i>	15	16	4
<i>„ 5th July, 1904</i>	15	16	4
<i>„ 5th October, 1904</i>	15	16	4
<i>„ 5th January, 1905</i>	15	16	4
<i>„ 5th April, 1905</i>	15	16	4
<i>„ 5th July, 1905</i>	15	16	4
<i>„ 5th October, 1905</i>	15	16	4
	126	10	8
	£544	18	2

PAYMENTS AND ALLOWANCES.

(1) <i>Payments in respect of rents, taxes, and insurance, &c.</i>			
<i>Land tax on cottage occupied by G. Cox</i>	£	s.	d.
<i>for year 1904</i>	0	2	4
<i>Ditto ditto ditto 1905</i>	0	2	4
	0	4	8
<i>1904, December 29, Phoenix Insurance</i>			
<i>Company for premium on house and</i>	£	s.	d.
<i>barn occupied by Mr. Mann</i>	2	8	0
<i>1905, December 30, the like</i>	2	8	0
	4	16	0
<i>Total for Taxes, Insurance, &c.</i>	£5	0	8

(2) *Payments in respect of repairs.*

	£	s.	d.	£	s.	d.
1904, March 7, house in occupation of J. Saunders, paid London Building Company	20	0	0			
1905, May 6, cottage in occupation of G. Cocks, paid carpenter	5	0	0			
<i>Total for repairs, &c.</i>				£25	0	0

MAINTENANCE.

<i>Paid Doctor Sylum.</i>	£	s.	d.			
1904, January 30	25	0	0			
„ April 28	25	0	0			
„ August 4	25	0	0			
„ October 30	25	0	0			
1905, January 28	25	0	0			
„ April 26	25	0	0			
„ July 30	25	0	0			
„ October 27	25	0	0			
				£200	0	0

MISCELLANEOUS.

	£	s.	d.	£	s.	d.
1904, January 15, committee's railway expenses	0	17	6			
„ May 4, the like	0	17	6			
„ October 1, the like	0	17	6			
1905, February 2, the like	0	17	6			
„ May 9, the like	0	17	6			
„ October 10, the like	0	17	6			
				5	5	0
<i>Paid Mr. Whiteley for sundry small articles of clothing</i> ...				0	15	0
1904, October 28, lunacy percentage for the year	6	0	0			
1905, October 28, ditto ditto	6	0	0			
				12	0	0
1905, December 2, paid into Court to the Credit of this matter in accordance with Order dated 2nd February, 1900				800	0	0
<i>Allowed costs of passing committee's account</i>				7	0	0
<i>The like, next of kin</i>				1	10	0
				£826	10	0

SUMMARY.

I. RECEIPTS.					£.	s.	d.	£	s.	d.	
<i>Rents...</i>	...	...	...	...	...	840	7	2			
<i>General Receipts</i>	...	...	...	...	...	544	18	2			
									1,385	5	4
II. PAYMENTS.											
<i>Rents, Taxes, Insurance, &c.</i>	...	...	...	...	...	5	0	8			
<i>Repairs</i>	...	...	...	...	...	25	0	0			
<i>Maintenance...</i>	...	...	...	...	...	200	0	0			
<i>Miscellaneous</i>	...	...	...	...	...	826	10	0			
									1,056	10	8
<i>Balance due from Committee</i>					...	...			£328	14	8

As soon as the affidavit in lieu of an account has been sworn, or the account has been prepared (as the case may be), such document should be lodged at the Lunacy Office together with—

- (a) All the vouchers.
- (b) A certificate of the fund in Court.
- (c) A transcript of the Paymaster General's account, and
- (d) An office copy of the Order appointing the Receiver [or Committee], dealing with the property, or authorising any particular payment thereout.

When the account or affidavit has been lodged, an appointment will be given to vouch the same, and the solicitor for the Committee [or Receiver] will attend at such appointment and support the items contained therein.

When an account has been vouched, the official who deals with the matter will assess the costs of the solicitors attending before him, and will include the same in the account: he will also add a statement as to any balance to be paid into Court, &c., and up to what date the next account is to be made up, and when it is to be brought in. The account as finally approved by the officials will then be sent by them for an engrossment, and a few days later the solicitor for the

Committee [or Receiver] will obtain the engrossment from the Lunacy Stationers with the following affidavit on the last sheet thereof, viz. :—

In the matter of John Smith, a person of unsound mind [not so found by Inquisition].*

I, Thomas Smith, the Committee [or Receiver] of the estate of the above-named John Smith, make oath and say that the foregoing account doth to the best of my knowledge and belief contain a just and true account of the several sums of money which have been received, retained, and paid by me or by any other person or persons whomsoever by my order or for my use on account of the said John Smith or his estate, from the 1st day of January, 1904, to the 31st day of December, 1905. And that the several sums of money in the said account mentioned to have been retained, paid, and allowed have been really retained, paid, and allowed for the several purposes in the said account mentioned. And that all the matters and things therein stated are true, and that there is no error or omission in the said account to the best of my knowledge and belief. And I further say that my sureties, John Johnson and Thomas Jones, are both living, and that they have not been declared bankrupt or compounded with their creditors.

Sworn, &c.

When this affidavit annexed to the account has been sworn, the document should be returned to the Lunacy Office, and an office copy thereof obtained.

* The officials will adapt this title to meet the circumstances of the case.

CHAPTER VII.

SOME FORMS IN GENERAL USE, AND ALSO SOME REMARKS
ON APPEALS, SUMMONSES FOR VESTING ORDERS AND
PETITIONS FOR TRAVERSES.

THE formal headings to the following precedents will be:—

- (a) In a case under sub-section (d) of the 116th section of the Lunacy Act, 1890 :

In the matter of John Smith,

*And in the matter of the Acts 53 Vict. c. 5
and 54 & 55 Vict. c. 65.*

- (b) In cases under sub-sections (c), (e), and (f) of the 116th section of the Lunacy Act, 1890, and in cases commenced by Petition, provided no order has been made at the time any of the precedents are used :

In Lunacy.

*In the matter of John Smith, a person alleged
to be of unsound mind.*

- (c) In cases under sub-sections (c), (e), and (f), where an order has been made :

In Lunacy.

*In the matter of John Smith, a person of
unsound mind, not so found by Inquisition.*

- (d) In cases commenced by Petition, where an Inquisition has been held and the lunatic has been certified to be of unsound mind :

In Lunacy.

*In the matter of John Smith, a person of
unsound mind.*

It is provided by Rule 45 of the Lunacy Rules, 1892 and 1893, that "any person, in whose custody or control any testamentary paper of the lunatic is, shall be at liberty to deposit the same in the office of the Masters upon oath as they may direct, there to remain for safe custody."

Form of Affidavit by Solicitor on lodging Lunatic's Will in Court.

(Formal heading.)

I, _____, of 415, Bedford Row, in the county of London, a member of the firm of _____ & _____, of the same place, solicitors, make oath and say as follows :—

- (1) *Some years ago I acted as solicitor for the above-named John Smith, and on instructions from him, I, in the month of May, 1896, prepared his Will.*
- (2) *The said John Smith called at my office and signed his Will in my presence and in the presence of one of my clerks, and I put the same into an envelope and sealed it up, endorsing such envelope with a memorandum that it contained the last Will and Testament of the said John Smith. I placed the said envelope so sealed up in one of the safes in my office.*
- (3) *The document which is now produced and shown to me, marked "H. D.," is the envelope so sealed up and endorsed by me as aforesaid, and it contains the said last Will and Testament of the said John Smith so prepared by me as aforesaid, and the said exhibited document has ever since it was so left with me remained in my custody and possession.*
- (4) *The said envelope and its enclosure are now in the same state and condition in every respect as when so sealed up and left with me as aforesaid.*

Sworn, &c.

Affidavit for use on obtaining Will out of Lunacy Jurisdiction on Lunatic's Death.

In Lunacy.

In the matter of Mary Smith (spinster), a person of unsound mind, not so found on Inquisition (since deceased).

I, Thomas Brown, of _____, in the county of _____, Esquire, make oath and say as follows :—

- (1) I knew and was well acquainted with the above-named Mary Smith for many years prior to her decease.*
- (2) The said Mary Smith died on the _____ day of _____, 190____, and is the same person as Mary Smith, spinster, mentioned in the certificate of death now produced and shown to me, marked " T. B."*

Sworn at, &c.

Form of Affidavit by the Solicitor for the Applicant making out a Case for a Sale.

(Formal heading, &c.)

- (1) My said firm have for many years acted as solicitors for the various members of the Smith family, and have been consulted as to the management of their property. I am well acquainted with the " Spotted Cow" Inn referred to in the affidavit of _____, and am enabled to depose to the following facts from my own knowledge.*
- (2) In my judgment and opinion the real value of the fee simple of the " Spotted Cow" Inn is about £2,000, but owing to the present enhanced value of public-house property, and to the fact that to my knowledge at the present moment there happen to be several persons and firms who are anxious to purchase the said premises, I believe that if the same were offered for sale, a less price than £3,000 would not be realised therefor.*

- (3) *In addition to the mortgage for £1,000 in favour of _____, there are several heavy claims against the lunatic's estate which amount in the aggregate to over £450, and there is no available source, other than the said "Spotted Cow" Inn, from which the necessary funds can be raised for payment of the said claims.*
- (4) *I do not consider that it will be practicable to raise between £450 and £500 by a further charge on the premises, or that the security could be conscientiously recommended to a client. And, having regard to the fact that the premises are in a bad state of repair, and that there is a possibility that the licence might be lost, I consider the margin of security inadequate, and should certainly not care to advise any client of my own to advance any such further sum as £450 on a second mortgage of the said premises. Under the above-mentioned circumstances I respectfully suggest that it is very desirable that the said premises should be sold at the earliest possible date.*

Sworn, &c.

NOTE.—The Masters in Lunacy are, as a rule, in the absence of special circumstances, unwilling to sanction a sale of real estate on the ground that the property is thereby converted into personal estate and the devolution thereof altered.

Summons for Leave to Sue and to compromise Claim, and also to confirm Conditional Contract for a Lease.

(Formal heading.)

Let all parties concerned attend the Master in Chambers, at the Royal Courts of Justice, London, on _____ day, the _____ day of _____, 1905, at _____ o'clock in the noon, on the hearing of an application on the part of _____, of _____, in the county of _____, the Committee of the*

* Or as the case may be.

estate of the above-named John Smith, appointed by order dated the , 1904,* that—

- (1) *The applicant may be at liberty to institute and prosecute an action for recovering the sum of £1,000 due and owing from Thomas Jones to the said John Smith, and secured by a promissory note dated the 1st January, 1899 (or for the purpose of compelling a sale or foreclosure of the messuage and premises comprised in an indenture of mortgage dated the 1st January, 1897, and made between Thomas Jones of the one part and the said John Smith of the other part, being a security for £1,000).*
- (2) *The applicant may be at liberty to compromise the action of "Jones v. Smith, 1904, J. No. 675," being an action instituted against the said John Smith in the Chancery Division of the High Court of Justice for an injunction to restrain the said John Smith from obstructing the ancient lights of the said Thomas Jones, upon the following terms, viz.:—*
- (3) *The conditional contract dated the , and made between the applicant of the one part and of of the other part for the granting of a lease of "Elvira House," High Street, in the City of London, to the said , on the terms and conditions therein mentioned, may be ordered to be carried into effect subject to such modifications (if any) in the terms of the said contract as to the Masters in Lunacy shall seem just and expedient and as the lessee shall approve of.*

Dated this day of 1905.

This summons was taken out by, &c.

* Or as the case may be.

Appointment of New Committee or Receiver (a).

The Masters have the power to appoint a new Committee [or Receiver] where the original Committee [or Receiver]

- (1) Has failed to complete his security,
- (2) Is dead,
- (3) Has a receiving order in bankruptcy made against him, or
- (4) Absconds or goes to reside permanently abroad.

In all these cases before the original Committee [or Receiver] obtains his discharge, he will be required to account as mentioned in Rule 81 in Appendix A.

Summons to appoint New Committee or Receiver on Death of former One.

(Formal heading and other parts.)

- (1) *The applicant may be appointed Committee of the estate of the above-named John Smith in the place of _____, deceased [or the applicant may be appointed Receiver of the estate of the above-named John Smith in the place of _____, deceased, and may be authorised to exercise such of the powers of a Committee of the estate as were formerly exercised by the said _____, deceased], and all necessary and consequential directions may be given to enable the applicant to receive and apply the income of the said John Smith for his maintenance and benefit, and to manage his estate as directed by the order dated the _____, 1897, appointing the said _____, deceased, Committee [or Receiver].*

Dated this _____ day of _____, 1905.

This summons was taken out by, &c.

(a) See Rules 79 and 80 of Lunacy Rules, 1892, in Appendix A.

Form of Affidavit in support of Summons to confirm Agreement for a Lease.

(Formal parts of affidavit.)

- (1) *I have for years last past carried on business as a house and estate agent at , in the county of , and I am well acquainted with the value, management, and letting of property in the neighbourhood of the house hereinafter mentioned.*
- (2) *I am well acquainted with "Elvira House," situate in High Street, in the City of London, and described in the conditional agreement now produced and shown to me marked "A." And I am of opinion that the rent of £ mentioned in the said agreement is the best rent that can reasonably be obtained for the said house, and that the terms and conditions of the said agreement are in other respects fair and reasonable, and in my judgment and opinion it will be beneficial to the above-named John Smith and to his estate that the said agreement should be approved and carried into effect.*
- (3) *I have made careful inquiries as to the position and solvency of Mr. (the proposed lessee of the said house), and as a result of such inquiries I am of opinion that he is well able to pay the rent and perform the covenants and agreements contained in the said lease, and that he is in all respects a most desirable tenant for the said premises.*

Sworn, &c.

Form of Affidavit of Life to enable Committee or Receiver to receive Dividends on the Funds in Court.

(Formal heading.)

I, _____, of No. 415, Bedford Row, in the county of London, a member of the firm of _____ & _____, of the same place, solicitors, make oath and say as follows:—

- (1) *_____, of _____, the Committee [or the Receiver] of the estate of the above-named John Smith, the person named in an order in this matter dated the _____, 1897, was alive on the _____, 1905, and is, as I verily believe, still living.*
- (2) *The said John Smith, also named in the said order, was alive on the _____, 1905, and is, as I verily believe, still living.*

Sworn, &c.

Form to be signed by the Committee of the Person for the Reception of a Lunatic into a Private House or an Asylum.

ORDER OF RECEPTION.

I, the undersigned, hereby direct you to receive and take charge of _____, a lunatic, so found by Inquisition.

(Signed)

(Address)

_____, Committee of the person of the above-named Patient.

Dated this _____ day of _____, 1905.

*To **

N.B.—This form complies with the provisions of the Act 53 Vict. c. 5, s. 12, but it is not statutory, and any order in any form signed by the Committee for the reception of the Lunatic would be equally valid.

* Insert the name and address of the person taking charge.

Form of Notice of Admission, to be transmitted within one clear day from the day of the Patient's Reception.

I hereby give you notice that _____, a person found Lunatic by Inquisition, was admitted into this House on the _____ day of _____, 1905, and I transmit herewith a copy of the Order of Reception signed by the Committee of the person, together with an office copy of the order appointing such Committee.

(Signed)

(a)

(Address)

Dated this _____ day of _____, 1905.

To the Commissioners in Lunacy.

APPEALS.

By Rule 11 of the Lunacy Rules, 1892 and 1893: Any person affected by any order, decision, or certificate of a Master may appeal therefrom to the Judge without a fresh summons, upon giving notice of appeal within eight days from the date of the order, decision, or certificate complained of, or such further time as may be allowed by the Judge or Master. The notice of appeal shall be given to the persons (if any) interested in supporting the order, decision, or certificate, and a copy thereof shall within the aforesaid period of eight days be left at the Master's office, and the Masters shall thereupon bring the matter before the Judge.

(a) Proprietor of asylum, if such be the case.

Form of Notice of Appeal from an Order of a Master.

(Formal heading.)

Take notice that _____, of _____, desires to appeal to the Judge from the order of the Master made in this matter dated the _____ [if only part is appealed from, add: so far as it directs that _____], and that he intends to ask that the said order may be discharged [or varied] and that it may be ordered that

Dated the day of , 1905.

(Signed)

To _____ Solicitors for
and to Messrs.
(his solicitors).

Form of Notice of Appeal from a Certificate of a Master.

(Formal heading.)

Take notice that _____, of _____, intends to appeal from the certificate of the Master made in this matter, dated the _____, and that he intends to ask that the said certificate may be varied as follows:—

and that such consequential directions may be given or corrections and alterations made in the said certificate as may be necessary.

Dated the day of , 1905.

(Signed)

To _____ Solicitors for
and to Messrs.
(his solicitors).

It is not often that the right to appeal is utilised; but should it become necessary to appeal, the following directions may be useful:—

The Appellant, having drawn his Notice of Appeal, must

attend at the Lunacy Office (Room 210), and there leave a copy of such notice, together with an office copy of the order appealed from.

No fee will be charged for setting down an Appeal.

The Lunacy Officials forward the Notice of Appeal to one of the Lords Justices, who thereupon appoints a day and hour when he can hear the appeal. This may be either in his Lordship's private room or in Court, as may suit his Lordship's convenience. In the former case, the appeal will probably be heard after 4 p.m. A date and hour having been thus fixed, notice thereof is given to the parties by the Lunacy Officials. It is safer, however, to make inquiries from time to time on the subject. From the decision of the Judge in Lunacy an appeal lies to the Court of Appeal, who, however, sit as, and are invested with the powers of, Her Majesty in Council. From the Court of Appeal an ultimate appeal lies to the House of Lords.

It may be well to mention here that the jurisdiction of the Judge in Lunacy is exercisable by the Lord Chancellor alone, or jointly with one or more of the Lords Justices of Appeal, or by any one or more of the Lords Justices of Appeal (see section 108, sub-section 1 of the Lunacy Act, 1890).

APPLICATIONS FOR VESTING ORDERS.

A Vesting Order is obtainable on Summons (a).

Sections 133 to 139 of the Lunacy Act, 1890, deal with some special occasions when Vesting Orders are required, the following being the more important, viz.:—(I.) to transfer stock of a Lunatic; (II.) to transfer stock of a Lunatic out of the Jurisdiction; (III.) to vest lands and release contingent

(a) Lunacy Rule dated the 29th October, 1900, in Appendix A.

right of Lunatic trustee or mortgagee; and (IV.) to vest right to transfer stock and sue for a chose in action.

Rule 57 of the Lunacy Rules, 1892, provides that applications under that portion of the Lunacy Act, 1890, which relates to Vesting Orders may be made—

- (a) Where the application is for the appointment of new trustees or relates to property subject to a trust by any person beneficially interested in the property, whether under disability or not, or by any duly appointed trustee thereof.
- (b) Where the application relates to property subject to a mortgage by any person beneficially interested in the Equity of Redemption or in the mortgage money, whether under disability or not.

Rule 58 provides that the application shall be intituled in the matter of the trust or mortgage, and of the particular lunacy, and in the matter of the Lunacy Act, 1890.

A summons for a Vesting Order is issued in Room 213 of the Lunacy Office, and with the summons there should be lodged the evidence filed in support thereof.

On the return day one of the Masters will hear the summons (the parties interested being very generally, but not necessarily, represented before him by counsel) and will suggest such an order as he thinks right. The Master's suggested order is then drawn up in draft in the Lunacy Office, and the draft, together with the summons and the evidence, is submitted by the Lunacy officials to one of the Lords Justices, who usually considers the same in the absence of the parties or their advisers, and who either confirms or varies the Master's suggested order or otherwise deals with the same as he may deem expedient. The order as finally approved by the Judge in Lunacy is drawn up and completed at the Lunacy Office.

As to the Judge's powers when dealing with a summons, see Rules 23 and 24 in Appendix A.

The formal title to applications for Vesting Orders is as follows:—

In Lunacy.

In the matter of the Trusts of an Indenture dated the , and made between .

And in the matter of A. B., a person of unsound mind (or as the case may be).

And in the matter of the Lunacy Acts, 1890 and 1891.

Two points as to the title to the application should be mentioned:—There is no jurisdiction in Lunacy to make a vesting order where proceedings were originated under subsection 1 (d) of the 116th section of the Lunacy Act, 1890. In these cases medical evidence of insanity must be filed (in which case it will cease to be an application under subsection (d)) or in default the application must be made in Chancery. It may occasionally be necessary to alter the formal words,

In the matter of the Trusts of an Indenture dated, &c.,

into some such words as,

In the matter of the Trusts of a Legacy of £1,000 bequeathed in trust for C. D. under the Will dated the of A. B., deceased.

Considerable misapprehension seems to exist as to the proper heading for these applications. The rule is that applications for vesting orders must be headed in Lunacy. To this however there are exceptions. Where the Lunacy Act does not exclusively confer the necessary jurisdiction and the aid of the Chancery jurisdiction is necessary to obtain the order, *i.e.*, the applicant relies on some section of some other Act which is administered in the Chancery Division, for example, the Trustee Acts, Settled Land Acts, Lands Clauses Acts, &c., this will be outside the exclusive Lunacy jurisdiction and the double heading in Lunacy and Chancery will be requisite.* See Rules 57 and 58 and notes thereon.

* See Form 1 in Schedule to Appendix A.

Form of Summons for Vesting Order.*In Lunacy.*

In the matter of the Trusts of an Indenture of Settlement dated the 1st day of July, 1872, and made between Thomas Jones, of the first part, Elizabeth Jones, of the second part, and William Jones, James Smith, and John Brown, of the third part ;

and

In the matter of William Jones, a person of unsound mind [not so found by Inquisition];*

and

In the matter of the Lunacy Acts, 1890 and 1891.

Let all parties concerned attend, &c., &c.,

- (1) *That the said may be appointed in the name and on behalf of the said William Jones, under section 116 (1) (d), and section 128 of the Lunacy Act, 1890, to exercise the power of appointing new Trustees of the above-mentioned Indenture of Settlement, now vested in the said William Jones, by appointing John Roe and Richard Doe as new Trustees of such Indenture of Settlement in the place of the above-named James Smith and John Brown, both deceased, and to do and execute such acts, deeds, and instruments as may be necessary and proper, and as the Masters in Lunacy shall settle and approve of.*
- (2) *That upon the appointment of the said John Roe and Richard Doe as such new Trustees as aforesaid, they may be appointed under section 129 of the Lunacy Act, 1890, to call for a transfer of and to transfer into their joint names the sum of £1,000 New Consols, now standing in the books of the Bank*

* *As the case may be.*

of England in the name of the above-named William Jones, as survivor in a joint account with James Smith, deceased, and John Brown, deceased, and to receive the dividends accrued and to accrue due thereon until such transfer, and that the said stock when transferred be held and applied by them upon and according to the subsisting trusts of the said Indenture of Settlement.

- (3) *That the lands and hereditaments comprised in an Indenture of Mortgage, dated the 29th September, 1893, and made between Rupert White, of the one part, and the said William Jones, James Smith, and John Brown, of the other part, now vested in the said William Jones by survivorship, may, under section 129 of the Lunacy Act, 1890, vest in the said John Roe and Richard Doe for all the estate therein of the said William Jones under the said Indenture of Mortgage, and subject to any right or Equity of Redemption which may be subsisting in the said lands and hereditaments, and to the intent that the said mortgage security and the principal money and interest thereby secured may be held by the said Trustees upon the subsisting trusts of the said Indenture of Settlement, and that the right to sue for the moneys secured by the said Indenture of Mortgage and any interest in respect thereof may vest in the said John Roe and Richard Doe as such Trustees as aforesaid.*
- (4) *That the reasonable and proper costs, charges and expenses of the applicants of and relating to this summons and incidental thereto may be provided for.*

Dated, &c.

This Summons was issued, &c.

Usual clauses in Summonses for Vesting Orders to be adapted to the Circumstances of each Case.

- (1) *That A. B. and C. D. may be appointed to be new Trustees of the Settlement dated, &c., &c. in the place of E. F., deceased, and in substitution for G. H. of unsound mind.*
- (2) *That the freehold and leasehold hereditaments and premises known as and all other the hereditaments (if any) now remaining subject to the trusts of the said [Will*] may vest in [the new Trustees] for all the estate and interest now vested in the said [Lunatic Trustee] as Trustees therein to be held by them upon the subsisting trusts of the said [Will*].*
- (3) *That the said [continuing Trustee] may be appointed in the place of the said [Lunatic Trustee] of unsound mind to join with himself in conveying the freehold hereditaments and premises now remaining subject to the trusts of the said [Settlement*] to or so that the same shall be and become vested in himself the said A. B. and the said [new Trustees] for all the estate and interest now vested in the said [Lunatic Trustee] and [continuing Trustee] as Trustees therein to be held by them upon the subsisting trusts of the said [Settlement*] such conveyance being settled and approved of by the Masters in Lunacy.*
- (4) *That the said [continuing Trustee] may be appointed in the place of the said [Lunatic Trustee and Mortgagee] of unsound mind to join with himself in conveying the freehold hereditaments respectively comprised in the said Indentures of Mortgage Transfer and Further Charge, dated respectively , to or so that the same shall be and become vested in himself the said [continuing Trustee] and the said [new Trustees] for all the estate and interest now vested in the said [Lunatic Trustee and Mortgagee and continuing*

* As the case may be.

Trustee] therein, subject nevertheless to such right or equity of redemption as may be subsisting in the said premises under or by virtue of the said Indentures or either of them to be held by them upon the subsisting trusts of the said [Will*], such conveyances to be settled and approved by the Masters in Lunacy.

- (5) *The right to call for a transfer of and to transfer [into their own names†] the several stocks and shares specified in the schedule to this summons, and respectively standing or registered in the names of A. B. deceased, C. D. [the Lunatic], and E. F., and to receive the dividends due and to accrue due thereon respectively, may vest in the said [new Trustees],‡ and that they may transfer the same into their joint names accordingly (or the joint names of [the new Trustees])‡ to be held by them upon the subsisting trusts of the said [Will*].*
- (6) *The right to sue for, recover and receive :—*
- (a) *The several bearer bonds specified in ;*
 - (b) *The sum of £ standing in the name of the [Lunatic Trustee] in the Post Office Savings Bank, Book No. ;*
 - (c) *The said principal sums of £ and £ respectively secured by the said Indentures of Mortgage Transfer and Further Charge ;*
 - (d) *The sum of £ now standing on a current account at the Lancashire & Yorkshire Bank in the names of the said [Lunatic Trustee] and [continuing Trustee] ;*
 - (e) *The goodwill of the business of Hotel Proprietors carried on upon the said premises ;*

* *As the case may be.*

† *If any liability attaches to the shares, the direction to transfer "into their own names" should be omitted.*

‡ *If any liability attaches to the shares the summons will read "and that such dividends and all moneys to be received by realisation of the said stocks and shares may be held by them," &c.*

- (f) *The Policy of Assurance on the life of the said for £ and all moneys assured thereby, and any bonus thereon in the Co. numbered and dated , 19 ;*
- (g) *The annuity of 12s. a week, payable monthly, during the life of the said under the Will of comprised in the said Indenture of Mortgage ;*
- and any other chose in action now remaining subject to the trusts of the said [Will*], and any interest thereon may vest in the said [new Trustees], to be held by them as such Trustees as aforesaid, and upon the Trusts aforesaid.*
- (7) *That the costs of the Applicants and of the Respondents of and incident to obtaining the order to be made hereon and carrying the same into effect may be taxed, and, when certified, may be paid by the Trustees out of the Trust Estate (or the capital of the said Trust Funds, or as may be).*

As regards the persons to be served, it is provided by Rule 59 that the applicant shall serve any such application upon the person or persons who, according to the practice of the Chancery Division of the High Court, would be required or entitled to be served in similar cases.

In this connection the following general rules may, perhaps, prove of service to the practitioner, viz. :—

I. Service on a Lunatic Trustee.

- (a) If he is so found by Inquisition, his Committee should be served.
- (b) If he is not so found, and is not a beneficiary, he need not be served.
- (c) If he is not so found, and is a beneficiary,
 - (1) his Receiver should be served, if one has been appointed under the 116th section of the Lunacy Act, 1890 ;

* Or as the case may be.

- (2) if no Receiver has been appointed, the Lunatic should be personally served, and service should be strictly proved.

II. All the beneficiaries should be served unless some special reason exists for not doing so.

III. Where the Trust Estate comprises a mortgage, the mortgagor should not be served. If he is served, the costs of service are disallowed. But if there has been an assignment of the Equity of Redemption, the *original* mortgagor should then be served, or the execution of the Deed of Assignment strictly proved.

The main affidavit in support of the summons should

- (a) Set out fully the investment clause in the Trust document;
- (b) Set out fully the power of appointment of new Trustees contained in such document;
- (c) The deaths of old Trustees and beneficiaries should be stated in the affidavit, but need not be strictly proved (see *Re Hoskins*, 4 De G. & J. 436);
- (d) Generally, all material facts must be fully but concisely set out in the affidavit, and must not be dealt with by reference to other documents;
- (e) Where a deed of appointment of new Trustees has been executed previously to and in contemplation of the application for a Vesting Order, such deed must be strictly proved;
- (f) In the last-named case, the Master will require to be satisfied that the Lunatic was of unsound mind both at the date of the execution of the deed and at the date of the application for a Vesting Order;
- (g) Where in the Chancery Division—in the case of beneficiaries who are married women—it would be necessary to file an affidavit of no settlement or to

prove the contents of the marriage settlement, it is necessary to adopt an exactly similar course in Lunacy;

- (h) Where the Lunatic Trustee has been found by Inquisition to be a person of unsound mind, the affidavit of facts should recite the finding, and give short particulars of the order made appointing a Committee. The office copy order appointing the Committee should be either lodged with the evidence filed in support of the application, or notice should be given to the Committee's solicitors to produce such order on the hearing of the Summons.

Where the Lunatic Trustee has been found by Inquisition to be a person of unsound mind, no further evidence of insanity is required. But in every other case (whether an order has or has not been made under the 116th section of the Lunacy Act, 1890) unsoundness of mind must be proved on the application for a Vesting Order. One strong medical affidavit is sufficient for this purpose: and any of the precedents of doctors' affidavits given under "Precedents in Support of Petition," Chapter V., pp. 60 to 63, should answer the purpose, after the formal title of the affidavit has been altered to meet the circumstances of the case.

The Judge in Lunacy exercises discretion in making Vesting Orders. For instance: if the trust funds are invested in unauthorized securities, an undertaking to transfer into authorized investments will be required. Again, if an appointment of new Trustees has been made in contemplation of the application to the Court, the Judge will consider whether the appointment is a valid one and properly made.

Form of Consent to act as Trustee.

(Formal heading as above.)

*I , of , hereby consent to act as a trustee of
the [describe the instrument].*

Dated the day of , 1905.

(Signed)

*I , of , solicitor, hereby certify that the
above-written signature is the signature of , the
person mentioned in the above-written consent.*

Dated the day of , 1905.

(Signed)

A TRAVERSE.

A Traverse may perhaps be classified as a survival of the Middle Ages, and as an almost obsolete method of procedure which one can only hope may, after nearly 53 years' sleep, perchance be once again stirred into life and energy.

A Lunatic, so found by Inquisition, or his near relatives, have a right within three months after the return day of the Inquisition to petition the Lord Chancellor for a Traverse; and any person found a Lunatic by Inquisition has a right (of which he cannot be deprived) to a Traverse, provided—

- (1) The issue as to his sanity was not tried in the High Court of Justice; that is, it *was* tried before a Master with a jury, and
- (2) The Judge is satisfied that the petitioner is mentally competent to understand what a Traverse is and to express a wish on the subject.

The petition for a Traverse recites: (a) the order for an Inquisition, (b) the holding of the Inquisition and the finding, and (c) that the petitioner is advised the finding is contrary

to the evidence he adduced. The prayer of the petition is that the petitioner may be at liberty to traverse. The petition is supported by medical and other affidavits to the effect that the petitioner is of sound mind, and that the former finding of a jury sitting with a Master is a mistake or contrary to the evidence adduced.

If the prayer of the petition is granted, the Attorney-General is served, pleadings are delivered, and ultimately an issue is taken as to the question of the petitioner's sanity in the King's Bench Division before a Judge and Jury (usually a special jury) either in Middlesex or at the Assizes.

The petition (*a*) is presented in the usual way at the Registration Department of the Lunacy Office (Room 210); but as this procedure is so very rarely used, it seems hardly necessary in a hand-book of this size to supply precedents, or give further information on the subject.

It is believed that the last reported case of a Traverse was one which occurred in 1852.

(*a*) See Rules 17 and 18 of the Lunacy Rules, 1892, in Appendix A.

CHAPTER VIII.

CONVEYANCING FORMS.

Form of Conditional Contract for Sale by Private Treaty.

*AN AGREEMENT made the day of , 1905, between John Jones of , *the Receiver of the estate of Thomas Jones, a person of unsound mind, not so found by Inquisition,* acting on behalf of the said Thomas Jones (hereinafter called "the Vendor") of the one part, and John Roe of (hereinafter called "the Purchaser") of the other part.*

Insert all usual clauses, adding the following at the end of the contract, viz. :—

- (1) *This agreement is conditional on the same being approved by the Masters in Lunacy, and the Vendor is forthwith to take all necessary steps to obtain, at his own expense, such approval.*
- (2) *This agreement is to be void unless the approval of the said Masters be within weeks from the date hereof obtained thereto, either in its present terms or with such variations therein as shall be approved within the like time by the purchaser.*

The Vendor will apply by summons for confirmation of the contract. The evidence in support will be

- (a) An affidavit by a Valuer proving that the price fixed by the contract is one which should be accepted ;
- (b) The Master will also require to be satisfied that it is expedient to sell. There is a natural reluctance to change the nature of the patient's property, or convert freeholds into personalty in the absence of some good and sufficient reason.

* Or as the case may be.

Form of Summons to confirm Conditional Contract for Sale.

(Formal heading.)

*Let all parties concerned attend the Master in Chambers at the Royal Courts of Justice, London, on day the day of , 1905, at o'clock in the noon, on the hearing of an application on the part of , of , in the county of ,*the Committee of the estate of the above-named John Smith, appointed by order dated the , 1904,* that*

- (1) *The conditional contract dated the , and made between the applicant of the one part, and John Roe of the other part, for the sale of the freehold house known as "Moorlands," High Street, York, to the said John Roe at the price or sum of £3,300, may be confirmed and ordered to be carried into effect, subject to such modifications (if any) in the terms of the said contract as to the Masters in Lunacy shall seem just and expedient, and as the Purchaser shall approve of.*
- (2) *Such consequential or other directions may be given as may be necessary or expedient for carrying out the sale of the said premises.*

Dated this day of , 1905.

This Summons was taken out by, &c.

To

Form of Affidavit in Support of Conditional Contract for Sale by a Valuer.

(Formal heading, &c.)

- (1) *I have carried on the business of an auctioneer and valuer at aforesaid for years and upwards last past, and have had during that period considerable experience in such business, and I believe myself well qualified to judge of the value of the property hereinafter mentioned, and of like property in the vicinity thereof.*

* Or as the case may be.

- (2) *I have examined and surveyed the hereditaments and premises described or referred to in the conditional contract for the sale thereof, dated the day of , 1905, and made between of the one part and of the other part, which is now produced and shown to me marked "A."*
- (3) *The sum of in the said contract mentioned is, in my judgment and opinion, the full and fair value of the said hereditaments and premises, and fully as much as would probably be obtained for the same at a sale thereof by public auction.*
- (4) *It will be advantageous to all parties interested that the said contract should be confirmed and carried into effect.*

Sworn, &c.

When an order has been made authorising a sale by public auction, the following documents should be lodged at the Lunacy Office for the approval of the Masters, viz. :—

- (1) Draft conditions of sale ;
- (2) Affidavit by auctioneer as to reserves ;
- (3) Lotting paper ; and
- (4) A letter should also be obtained from the auctioneer stating his proposed fees—
 - (a) if the property sells, and
 - (b) if it does not sell.

The draft conditions lodged at the Lunacy Office are settled and retained by the officials. The solicitor having the conduct of the sale must therefore amend his own draft to agree with the document so settled and retained as aforesaid. The conditions of sale will then be printed from the solicitor's draft.

The Lunacy Office has no regular stereotyped form of conditions. Anything that meets the requirements of the particular case, and is in satisfactory language, will be sanctioned.

The following are some special clauses which have been approved by the Masters:—

Some Special Clauses in Conditions of Sale.

(1) *The sale is subject to a reserve bidding which has been fixed by the Masters in Lunacy ;*

OR

(1) *The sale is subject to a reserved price for each lot, which has been fixed by the Court, and the vendor reserves the right to bid up to such reserved price.*

(2) *The purchaser is at the time of sale to pay a deposit of £10 per cent. on the amount of his purchase-money to , the person appointed by the Court to receive the same.*

(3) *The vendor is a person of unsound mind not so found by Inquisition, and an order dated has been made by the Masters in Lunacy appointing a Receiver of his estate, with power to carry out the sale, and the purchaser shall comply with the said order or with any further order of the Masters in Lunacy as to payment of the purchase-money to the said Receiver, or into Court or otherwise.*

(4) *Each purchaser shall pay the amount of his purchase-money, after deducting the amount paid as a deposit, to , the persons appointed by the Masters in Lunacy to receive the same, on or before the , 1905, and if the same is not so paid, then each purchaser in default is to pay interest on the balance of his purchase-money at the rate of £5 per cent. per annum from the said , 1905, to the day on which the same is actually paid ;*

OR

(4) *The purchaser is under the Order in Lunacy dated the , made in the matter of John Smith, a person of unsound mind not so found by Inquisition, to pay the balance of his purchase-money (after deducting the amount paid as a deposit) into Court to the credit of In the Matter of John Smith, a person of unsound mind not so found by Inquisition, to an account to be intituled "Proceeds of Sale*

of Real Estate," on or before the next; and if from any cause whatever the same is not so paid [common form clause providing for payment of interest on unpaid purchase-money]. In case any purchaser shall neglect to pay his purchase-money into Court as aforesaid, the costs of any application by the vendor to compel such payment shall be borne by the purchaser, unless the Court shall otherwise direct. Upon payment of the purchase-money in manner aforesaid, and the conveyance being approved by the Court and duly executed, the purchaser is to be entitled to possession, &c.

(5) *If any error or misstatement shall appear to have been made in the above particulars, such error or misstatement is not to annul the sale or entitle the purchaser to be discharged from the purchase, but a compensation is to be made to or by the purchaser, as the case may be, and in the event of any dispute the amount of such compensation is to be settled by the Masters in Lunacy.*

(6) *The conveyance to the purchaser of the property purchased by him will be subject to the approval of the Masters in Lunacy, and the engrossment thereof will be prepared at the purchaser's expense by or through the office of the Masters in Lunacy, who will approve the conveyance.*

(7) *The conveyance to the purchaser is to be made in the name and on behalf of the said by the Receiver of his estate, who is to be required to give only the statutory covenant implied by reason of his being expressed to convey under the order of the Court, or in such other manner as the Masters in Lunacy, in case of any difference between vendor and purchaser, shall direct, and any other order required to enable a conveyance shall be obtained by the purchaser at his own expense.*

Lastly. If the purchaser shall not pay his purchase-money at the time above specified or at any other time which may be named in any order for that purpose, and in all other respects perform these conditions, an order may be made by the Masters in Lunacy upon application in

Chambers for the resale of the property agreed to be purchased and for payment by the purchaser of the deficiency (if any) in price which may be obtained upon such resale and all costs and expenses occasioned by such default.

The solicitor for the vendor must use his own discretion as to which and how many of the above clauses he incorporates in any particular case in his draft conditions for sale. The main points are—

- (a) To fix the purchaser with notice that the owner of the property is of unsound mind, and the sale takes place under an order of the Masters in Lunacy, and
- (b) To provide for the payment of the purchase-money into Court or otherwise as directed by the order under which the sale is held.

Form of Affidavit as to Reserve Price by Valuer.

(Formal heading, &c.)

- (1) *I have carried on the business of an auctioneer and valuer at aforesaid for years and upwards, and have had during that period considerable experience in such business, and I believe myself well qualified to judge of the value of the property hereinafter mentioned and of like property in the vicinity thereof.*
- (2) *I have carefully examined and surveyed the premises Nos. , , by the order in this matter dated the , 1905, directed to be sold, in order to form an opinion as to the value thereof and the amounts which the said houses ought to realise.*
- (3) *In my judgment the full and fair market value of the property is £4,400, and if offered for sale by public auction, I recommend that a reserve of £4,000 should be placed on the block of four houses and a reserve of £1,000 on each separate house.*

Sicorn, &c.

Form of Lotting Paper.*In Lunacy.**In the matter of John Smith, a person of unsound mind, not so found by Inquisition.**Lotting Paper.*

<i>Description of Property.</i>	<i>No. of Lot.</i>	<i>Value.</i>	<i>Proposed Reserve Bidding.</i>
10, Blackacre Lane, Nuneaton ...	1	£1,100	£1,000
12, Blackacre Lane, Nuneaton ...	2	£1,100	£1,000
14, Blackacre Lane, Nuneaton ...	3	£1,100	£1,000
16, Blackacre Lane, Nuneaton ...	4	£1,100	£1,000

Instructions to the auctioneer as to the reserve prices will be handed to the solicitor for the vendor in a sealed envelope.

In drafting conveyances, mortgages, leases, &c., to be executed by a Receiver or Committee, it will be necessary to recite in the document the words of the Order under or by virtue of which such document is prepared. The terms and wording of Orders are always liable to vary according to the circumstances of any particular case: and it is possible that the following precedents may occasionally need some slight adaptation to meet such altered circumstances and wording accordingly.

Indenture of Mortgage raising Money for Payment of Debts and Costs executed by Receiver [or Committee].

THIS INDENTURE dated the day of 1905
and made between John Smith, of Littlemoor Asylum in the
county of Middlesex [a person of unsound mind not so found
by Inquisition, acting by Thomas Smith the person appointed
to exercise certain powers of a Committee of his estate*], of

* If proceedings were commenced by petition and the patient has been found a lunatic:—“A person of unsound mind acting by Thomas Smith the duly appointed committee of his estate.”

the one part, and James Jones, of Blackacre in the county of Essex, Esquire, of the other part. WHEREAS the said John Smith is seised in fee simple free from incumbrances of the hereditaments intended to be hereby conveyed. AND WHEREAS by an Order dated the and made in the matter of John Smith, a person of unsound mind [not so found by Inquisition], the said Thomas Smith was authorized in the name and on behalf of the said John Smith to raise by way of Mortgage the sum of £200 at a rate of interest not exceeding £4 per cent. per annum upon the security of the same hereditaments, and for that purpose in the like name and behalf to do and execute all such acts, deeds and things as might be necessary and proper and as the Masters in Lunacy should first settle and approve, and also to receive and give a valid receipt for the said sum of £200. AND WHEREAS the said James Jones has agreed to lend the sum of £200 to the said John Smith acting by the said Thomas Smith as aforesaid upon having the repayment thereof with interest thereon secured in the manner hereinafter expressed. AND WHEREAS Esquire, K.C., one of the Masters in Lunacy has settled and approved these presents as a proper Mortgage to be executed in pursuance of the said Order, and in testimony of such his approval the seal of the said Masters has been affixed in the margin hereof. NOW THIS INDENTURE WITNESSETH, that in pursuance of the said agreement and order, and in consideration of the sum of £200 now paid by the said James Jones to the said John Smith acting as aforesaid (the receipt whereof the said John Smith acting as aforesaid hereby acknowledges), the said John Smith acting as aforesaid hereby covenants, &c. &c. AND THIS INDENTURE ALSO WITNESSETH that for the consideration aforesaid the said John Smith acting as aforesaid as beneficial owner hereby conveys, &c. &c.

All covenants by the mortgagor will be in the name of
 “*John Smith acting as aforesaid.*”

Form of Indenture of Lease by Lunatic.

THIS INDENTURE dated the day of 1905, and made between John Smith, of Littlemoor Asylum in the county of Middlesex [a person of unsound mind not so found by Inquisition, acting by Thomas Smith, a person appointed to exercise certain powers of a Committee of his estate*] (hereinafter called the Lessor) of the one part, and James Jones, of Blackacre in the county of Essex, Esquire (hereinafter called the Lessee), of the other part. WHEREAS by an Order dated the made in the matter of the said John Smith, a person of unsound mind [not so found by Inquisition], the said Thomas Smith was authorised, in the name and on behalf of the said John Smith, to grant to the Lessee a lease of the messuage and premises hereinafter more particularly referred to for the term at the rent and upon the conditions hereinafter mentioned, and in the name and on behalf of the said John Smith to execute the said lease when settled and approved by the Masters in Lunacy on the Lessee executing a counterpart thereof. AND WHEREAS Esquire, K.C., one of the Masters in Lunacy, has settled and approved these presents as a proper lease to be executed in pursuance of the said Order, and in testimony of such his approval the seal of the said Masters has been affixed in the margin hereof. NOW THIS INDENTURE WITNESSETH that in pursuance of the said Order and in consideration of the rent hereinafter reserved, and of the Lessee's covenants hereinafter contained, the Lessor acting by the said Thomas Smith as aforesaid hereby demises, &c.

Lessor's covenants will be by the "*Lessor acting as aforesaid.*"

Execution by the Committee will be "*John Smith by Thomas Smith, Committee of his estate*"; by a Receiver, "*John Smith by Thomas Smith.*"

* If proceedings were commenced by petition and the patient has been found a lunatic:—"A person of unsound mind acting by Thomas Smith the duly appointed Committee of his estate."

Reconveyance to the Lunatic.

THIS INDENTURE dated the day of 1905, and made between James Jones of Blackacre in the county of Essex, Esquire, of the one part, and John Smith of Littlemoor Asylum in the county of Middlesex [a person of unsound mind not so found by Inquisition, acting by Thomas Smith a person appointed to exercise certain powers of a Committee of his estate*] of the other part. WHEREAS (recite Indenture of Mortgage—hereinafter called the Principal Indenture—and as to Title): AND WHEREAS by an Order dated the , and made in the matter of the said John Smith a person of unsound mind [not so found by Inquisition], the said Thomas Smith was directed to apply the sum of £400 when received by him as mentioned in the said Order in payment off of the sum of £400 due to the said James Jones on the security of the Principal Indenture with interest thereon at the rate of £4 per cent. per annum, and was authorized in the name and on behalf of the said John Smith to concur in such reconveyance as might be necessary and as the Masters should settle and approve: AND WHEREAS Esquire, K.C., one of the Masters in Lunacy, has settled and approved these presents as a proper reconveyance to be executed in pursuance of the said Order and in testimony of such his approval the seal of the said Masters has been affixed in the margin hereof: NOW THIS INDENTURE WITNESSETH, that in pursuance of the said Order and in consideration of all principal money and interest secured by the Principal Indenture having been paid (the receipt, &c.) the said James Jones as Mortgagee hereby conveys, &c. &c. TO HOLD unto and to the use of the said John Smith acting by the said Thomas Smith as aforesaid in fee simple freed and discharged, &c. &c.

* If proceedings were commenced by petition, and the patient has been found a Lunatic:—"A person of unsound mind, acting by Thomas Smith, the duly appointed Committee of his estate."

Form of Reconveyance by the Lunatic.

THIS INDENTURE dated the day of 1905, and made between John Smith of Littlemoor Asylum in the county of Middlesex [a person of unsound mind not so found by Inquisition, acting by Thomas Smith a person appointed to exercise certain powers of a Committee of his estate*] of the one part, and James Jones of Blackacre in the county of Essex, Esquire, of the other part. WHEREAS (recite title and mortgage to Lunatic): AND WHEREAS by an Order dated the and made in the matter of, &c. &c., it was ordered that on the said James Jones paying into Court to the credit of John Smith a person of unsound mind [not so found by Inquisition] the said principal sum of £5,000, and paying to the said Thomas Smith* as such Committee as aforesaid* all interest due on the said principal sum of £5,000 secured by the said Principal Indenture, the said Thomas Smith should in the name and on behalf of the said John Smith convey to the said James Jones, or as he might direct, the hereditaments comprised in the Principal Indenture for the estate vested in the said John Smith as mortgagee therein, and discharged from the principal moneys and interest thereby secured, and that such reconveyance should be settled and approved by the Masters in Lunacy: AND WHEREAS the said James Jones has duly paid the sum of £5,000 into Court to the credit of John Smith a person of unsound mind [not so found by Inquisition], and has also paid and satisfied all interest thereon in accordance with the terms of the said Order: AND WHEREAS (recite approval of Master as in last preceding precedents). NOW THIS INDENTURE WITNESSETH that (John Smith, "acting by Thomas Smith as aforesaid," reconveys the mortgaged property).

* As the case may be. See last preceding Precedents.

Form of Conveyance by Lunatic Vendor.

THIS INDENTURE dated the day of 1905, and made between John Smith of Littlemoor Asylum in the county of Middlesex [a person of unsound mind not so found by Inquisition, acting by Thomas Smith a person appointed to exercise certain powers of a Committee of his estate*] of the one part, and James Jones of Blackacre in the county of Essex, Esquire, of the other part. WHEREAS (recitals as to title): AND WHEREAS (recite order directing sale and lodgment of purchase-money in Court*): AND WHEREAS (recite approval of Master*): AND WHEREAS the said James Jones did, on the day of 1905, pay into Court the said sum of £5,000 to the credit of John Smith a person of unsound mind [not so found by Inquisition] to an account intituled "Proceeds of Sale of Real Estate." Now THIS INDENTURE WITNESSETH, that in pursuance of the said agreement and order, and in consideration of the sum of £5,000 so paid into Court as aforesaid (the receipt &c.), the said John Smith acting by the said Thomas Smith as aforesaid as beneficial owner hereby conveys, &c.

Power of Attorney by Lunatic.

To all to whom these Presents shall come I, John Smith, of Littlemoor Asylum in the county of Middlesex [a person of unsound mind not so found by Inquisition, acting by Thomas Smith, a person appointed to exercise certain powers of a Committee of his estate] send greeting.* WHEREAS (recite object for which it is proposed to appoint attorney, e.g., to sue someone abroad; to collect rents; to manage property in the colonies; or as the case may be): AND WHEREAS (recite order authorizing appointment of attorney): AND WHEREAS (recite approval of Master*). NOW KNOW ALL MEN BY THESE PRESENTS that I, John

* See preceding Precedents.

Smith, acting by the said Thomas Smith as aforesaid, do hereby nominate constitute and appoint &c.

For the word "I" in the ordinary form of power substitute the words "*I acting as aforesaid.*"

When a draft or other document has been approved on behalf of all the parties thereto, such draft should be lodged, together with the order under which the document is prepared, at the Lunacy Office for the approval of the Master. Some delay may be obviated if the papers are left in the first instance with the official who drafted the order: as he will be able to say on what date the solicitor having the conduct of the matter should attend and inquire if the document has been sanctioned by the Master.

So soon as the Master's approval has been obtained and his alterations (if any) have been considered and accepted by the parties, the Lunacy Officials will themselves instruct the Lunacy Stationers to engross the document. The engrossment is purchased from the Stationers, then stamped, and (subject as hereinafter mentioned) examined by the solicitor having the conduct of the matter at his own office. The undermentioned affidavit is filed, the Lunacy Seal is affixed to the engrossment, and the document is handed over for execution.

When the engrossment is very short, it is examined at the Lunacy Office with the Lunacy Officials, in which case no affidavit of such examination is needed. When examined elsewhere an affidavit is necessary.

Form of Affidavit of Examination of Engrossment, with Draft.

In Lunacy.

In the matter of John Smith, a person of unsound mind [not so found by Inquisition].
I, _____, of 415, Bedford Row, in the County of London, clerk to Messrs. _____ & _____, of the same place, solicitors, make oath and say as follows:—

- (1) *I have carefully examined and compared the parchment writing now produced and shown to me, marked*

"J. S.," with the draft or paper writing now produced and shown to me marked "J. S.¹," being the draft of the [mortgage*] settled at the Chambers of the Masters in Lunacy pursuant to the Order made in this matter dated the , 1905.

- (2) The said parchment writing marked "J. S." is a true and correct transcript and engrossment of the said draft marked "J. S.¹"

Sworn, &c.

The draft conveyance, draft mortgage, or draft other document, approved by the Master, is retained at the Lunacy Office.

Form of Writ (Order XIV.) on behalf of Lunatic Plaintiff.

In the High Court of Justice.

1905. S. No.

King's Bench Division.

Between JOHN SMITH, a person of unsound mind, not so found by Inquisition by JOSEPH HALL, the Receiver of his Estate, appointed by Order dated 3rd December, 1904, and the said JOSEPH HALL, as such Receiver . . . Plaintiffs,
and

GEORGE EDWARD MURPHY, Defendant.

EDWARD THE SEVENTH by the Grace of God of the United, &c.,

To George Edward Murphy, of 1 Regent Street in the City of Westminster, Chartered Accountant.

WE COMMAND you &c.

at the suit of John Smith, a person of unsound mind not so found by Inquisition by Joseph Hall, the Receiver of his Estate, appointed by Order dated the 3rd December, 1904, and the said Joseph Hall as such Receiver.

And take notice &c.

Witness &c.

* *As the case may be.*

STATEMENT OF CLAIM.

The claim of the plaintiff John Smith by the plaintiff Joseph Hall, and of the plaintiff Joseph Hall as the Receiver of the Estate of the plaintiff John Smith, against the defendant, is for principal and interest due under a covenant contained in a deed dated 1st May, 1900, made between the said defendant of the one part and the said plaintiff John Smith of the other part.

PARTICULARS.

1st November, 1903.

<i>Principal sum due</i>	<i>£500 0 0</i>
<i>Interest thereon at £5 per cent. from 1st May</i>	
<i>1900 to 1st January 1905 being four years</i>	
<i>and eight months</i>	<i>116 13 4</i>
<i>Amount due</i>	<i>£616 13 4</i>

Place of Trial—Middlesex.

&c., &c.

In any case in which a writ is issued on behalf of a person of unsound mind not so found by Inquisition (*i.e.*, a person with reference to whom an order has been made under the 116th section of the Lunacy Act, 1890), the endorsement of the writ should show that an order has been made in Lunacy appointing a Receiver. Otherwise the officials at the Central Office will probably take the point that a next friend should be appointed. See Order 16, rule 17, of the Rules of the Supreme Court.

CHAPTER IX.

FORMS OF SUMMONS TO WIND UP ESTATE ON DEATH OF PATIENT, AND OF PETITION FOR A SUPERSEDEAS OR SUMMONS TO DISCHARGE ORDER UNDER THE 116TH SECTION, AND THE EVIDENCE IN SUPPORT THEREOF RESPECTIVELY.

Form of Summons on Death of Patient issued at instance of Committee [or Receiver] who is the legal personal Representative (a).

(Formal heading, &c.)

- (1) *The passing of any further account by him as such Committee [or Receiver] may be dispensed with, and the Bond dated the , 1895, entered into by the applicant with John Johnson and Thomas Jones as his sureties may be vacated.*
- (2) *The costs of, incident to, and consequent upon this application, together with the general costs of management from the foot of the last taxation, may be taxed as between solicitor and client.*
- (3) *So much of the sum of £5,000 New Consols in Court to the credit of this matter as may be sufficient to raise the amount of the said costs when taxed may be sold; and that the said costs may be paid out of the said proceeds of sale.*

(a) See Rule 81 of Lunacy Rules, 1892, in Appendix A.

- (4) *The residue of the said sum of £5,000 New Consols (after such sale as aforesaid), and any cash and interest standing to the before-mentioned credit may be transferred and paid to the applicant as the Legal personal representative of the said John Smith.*

Dated this day of , 1905.

This summons was issued by, &c.

Another form of Summons by a Legal Personal Representative who is not the Committee [or Receiver].

(Formal heading, &c.)

- (1) *The bond dated the , 1895, entered into by Thomas Smith with John Johnson and Thomas Jones as his sureties may be vacated after the passing of the account of the said Thomas Smith as the Committee [or Receiver] of the estate of the above-named John Smith appointed by order dated the day of , 1895, and after payment by the said Committee [or Receiver] to the above-named applicant of any balance in his hands that may be found due after passing his said account.*
- (2) *The costs, charges, and expenses of all parties of, incident to, and consequent upon this application, and also any general costs of the said Thomas Smith not already taxed or allowed, may be taxed as between solicitor and client, and paid by the applicant out of the estate of the said John Smith, deceased, now in his hands.*
- (3) *The funds in Court may be dealt with as directed by the Schedule hereto.*

Dated this day of , 1905.

This summons was issued by, &c.

The Schedule above referred to.

In Lunacy.

*In the matter of John Smith, a person of unsound mind
[not so found by Inquisition].*

Ledger Credit, as above.

Funds to be dealt with, £5,000 New Consols.

£ *India £2½ per cent. Stock.*

£ *money on deposit.*

<i>Particulars of payments transfers, or other operations ordered.</i>	<i>Payees and Transferees or separate accounts.</i>	<i>Amounts.</i>	
		<i>Money.</i>	<i>Securities.</i>
<i>Transfer (1) New Consols, and (2) India 2½ per cent. stock.</i>	<i>G. H., of Esquire, as legal per- sonal representative of the above-named John Smith.</i>	...	£5,000 0 0
<i>Pay money on deposit cash and any interest.</i>	<i>The like.</i>		

Form of Affidavit by Committee [or Receiver] in support of his Application.

(Formal heading.)

*I, Thomas Smith, of , in the county of ,
Esquire, the Committee [or Receiver] appointed by order
dated , 1895, make oath and say as follows:—*

- (1) By the said order I, this deponent, was, upon the
certificate of the Masters in Lunacy that I had
completed my security, appointed [to exercise certain
of the powers of a] Committee of the estate of the
above-named John Smith, and the sum of £5,000
New Consols was directed to be paid into Court as
therein mentioned.*

- (2) *By certificate dated the 9th July, 1896, it was certified that I, this deponent, together with my sureties, John Johnson and Thomas Jones, had entered into a bond dated the 1st July, 1896, in the penal sum of £500 duly executed for answering the estate of the said John Smith; that the said bond had been approved of by the said Masters, and that the security was completed.*
- (3) *The said John Smith died a bachelor and intestate on the day of , 1905, at , in the county of . He is the same person as "John Smith" named in the certificate of death now produced and shown to me marked "T. S."*
- (4) *Letters of Administration of the personal estate and effects of the said John Smith were on the , 1905, granted out of the Principal Probate Registry to myself, this deponent, as the natural and lawful brother of the said deceased. Such Letters of Administration are now produced and shown to me marked "T. S."¹*

Sworn, &c.

PETITION FOR A SUPERSEDEAS.

If the proceedings with reference to a person of unsound mind were commenced by petition (a), it will be necessary in the event of the patient recovering his (or her) sanity to apply by petition for a Supersedeas. The petition is presented at the Registration Department of the Lunacy Office (Room 210), and with it at the same time are lodged two medical affidavits in support.

The petition for a Supersedeas will recite—

- (a) The order for an Inquisition.
- (b) The holding of the Inquisition, and that the present petitioner was then certified to be of unsound mind.

(a) See Rules 17 and 18 of the Lunacy Rules, 1892, in Appendix A.

- (c) The Master's certificate (if there was one).
- (d) The order made thereon.
- (e) The certificate of completion of security and any other matters of importance connected with the management of the petitioner's estate, and
- (f) That the petitioner is now of sound mind.

The prayer of the petition will ask that the petitioner may be at liberty to attend the Lord Chancellor to be examined as to his (or her) state of mind, and that the original proceedings may be superseded.

It may be mentioned that if the application for a Supersedeas is made by the patient, it is *not* necessary to serve the Committee with the petition, but it *is* necessary to give him or his solicitors notice thereof. It should also be borne in mind that if the patient's solicitors make the application, such solicitors will probably find that they can obtain copies of the documents which have to be recited in the petition in the most expeditious manner possible by writing to the Chief Clerk of the Masters in Lunacy, informing him of the suggested application and requesting that he will authorize the solicitors for the Committee to supply them with copies of the necessary documents. It is understood that considerable trouble has been caused in the past by persons who may be really insane becoming possessed of copies of documents relating to their own cases, and as a result thereof abusing in no measured terms the former deponents to affidavits. Most solicitors therefore will, if acting wisely, decline to furnish the copies without some kind of authority from the Lunacy Officials.

It is very necessary that, in addition to the copies of the orders, &c. to be recited in the petition for a Supersedeas, copies of the two medical affidavits on which the original application was based should be obtained, for then the two doctors making affidavits in support of the present petition can state that they have read this evidence, that they understand the disease from which the patient was formerly

suffering, that they have examined him as to his former illness and delusions, and that he has completely recovered.

Form of Petition for a Supersedeas.

In Lunacy.

*In the matter of John Smith, late a person
of unsound mind.*

*To the Right Honourable the Lord High Chancellor of
Great Britain.*

*The Humble Petition of the above-named John Smith,
now residing at , in the county of ,
showeth :—*

- (1) *Pursuant to your Lordship's order bearing date
the day of , 1896, made upon the
application of Thomas Smith, an inquiry was
directed as to the Lunacy of your petitioner.*
- (2) *The said inquiry was duly executed on the day
of , 1896, before , Q.C., one of the
Masters in Lunacy, and it was found that your
petitioner was a person of unsound mind, so that he
was not sufficient for the governing of himself, his
manors, messuages, lands, tenements, goods, and
chattels.*
- (3)* *Mr. , Q.C., the said Master, by his report
bearing date , 1897, certified that the said
Thomas Smith was the heir-at-law, and the said
Thomas Smith and were the next-of-kin of*

* In more recent cases there will probably not have been any Report (see p. 76), and therefore the third paragraph may sometimes be inapplicable. In such a case, when omitting the third paragraph, it is desirable, if possible, to show in the recital of the order (para. 4 in this form) what the petitioner's property consisted of.

your petitioner. And the said Master found that the property of your petitioner consisted of

- (a) £5,000 *New Consols.*
- (b) £2,500 *India* £3 10s. *per cent. Stock.*
- (c)

The said Master also found that the various stocks and funds above referred to yielded an income of £ per annum, and that the said Thomas Smith was the most fit and proper person to be appointed Committee of both the person and estate of your petitioner.

- (4) *By an Order bearing date the day of , 1897, the said Master's Report was confirmed, and the custody of the person, and the custody, regulation, occupation, disposition, and receipt of the estate of your petitioner were granted to the said Thomas Smith, and after a direction for payment of debts it was ordered that it should be referred to the Taxing Master to tax the reasonable costs, charges, and expenses of the said Thomas Smith of the order for the inquiry, and his reasonable and proper costs, charges and expenses, and those of the next-of-kin of your petitioner, when taxed, should be paid out of any money coming to his hands as Committee of the estate and available for that purpose.*
- (5) *In pursuance of such last-mentioned order, the said Master, Mr. , Q.C., certified that the costs of the said Thomas Smith and of the said next-of-kin had been taxed at £ , but I am unable to say whether the said costs have or have not been paid.*
- (6) *By a certificate dated , 1897, it was certified that the said Thomas Smith had, together with John Johnson and Thomas Jones, his sureties, entered into a bond for answering the estate of your petitioner, and accounting for the rents, profits, and*

produce thereof, and for the careful discharge of his duties as Committee of the estate of your petitioner, and that the said bond had been approved by the Master and remained deposited in the office of the Masters in Lunacy, and that the security of the said Thomas Smith and the grant to him of the custody of my estate was completed.

- (7) *Your petitioner, having perfectly recovered his sound state of mind and understanding for twelve months and upwards, is desirous that the said Commission in Lunacy should be superseded.*

Your Petitioner therefore humbly prays your Lordship that he may be at liberty to attend your Lordship for the purpose of being examined as to his sanity of mind and competency of understanding for the management of himself and his estate, and that the said Inquisition and proceedings thereon may be superseded forthwith, and that a Supersedeas may issue for that purpose, or that your Lordship shall make such further or other order as to your Lordship shall seem meet.

And your Petitioner will ever pray, &c.

*Signed by the petitioner, John {
Smith, in the presence* of }*

* *The witness must be a solicitor.*

Form of Medical Affidavit in support of Petition for a Supersedeas.*In Lunacy.*

In the matter of John Smith, late a person of unsound mind.

I, Richard Doe, of 599, Harley Street, in the county of London, M.D., M.R.C.S., L.R.C.P., make oath and say as follows :—

- (1) I have perused copies of the affidavits of* respectively sworn in this matter on the , 1896.*
- (2) On the , 1904, the above-named John Smith came to stay at my house, 599, Harley Street, aforesaid, as a paying patient. He was sent by Dr. of , with whom he had resided some time previously, and I understood from the said Dr. that the said John Smith was a person who had formerly been of unsound mind, but that at the time he came to stay at my house as aforesaid he had almost if not entirely recovered.*
- (3) The said John Smith has remained in my house from the said , 1904, down to the present time. During such aforesaid residence I have seen the said John Smith several times in each day, and have had long conversations with him. He has also had his meals with my family and myself, and I have had every opportunity of ascertaining the state of his mind.*
- (4) From what I saw of the said John Smith, I judged it right to allow him complete freedom to go out and come in when he liked, and my family, my servants, and myself treated him then, and now treat him, as an ordinary visitor of sane mind and understanding.*
- (5) In my judgment and opinion the said John Smith has now recovered from the disease from which he*

* The two medical affidavits on which an order for an Inquisition was made.

formerly suffered, and he is of sound mind and understanding, and fit and competent to manage both himself and his affairs.

- (6) *I last saw the said John Smith on the date of swearing this my affidavit.*

Sworn, &c.

Another form of Medical Affidavit.

(Formal heading, &c.)

- (1) *I have for years and upwards last past been the Medical Superintendent of the Asylum, situate at aforesaid, for the reception of persons of unsound mind, and on or about the day of , 1896, I received into my care and custody the above-named John Smith as a person of unsound mind.*
- (2) *The said John Smith has ever since continued and now is under my care and custody; but his conduct and discourse have gradually improved, and now are calm, coherent, and rational.*
- (3) *I have perused the affidavits of* , respectively sworn in this matter on the , 1896, and I myself noticed the delusions and symptoms from which the said John Smith formerly suffered, and which were of an aggravated nature. Such delusions have gradually ceased, and such symptoms have steadily improved, until, in my judgment and opinion, the said John Smith has now become of sound mind and understanding, and fit and competent to manage both himself and his affairs.*
- (4) *I consider that the said John Smith is now perfectly cured, and that there is no likelihood of his being again attacked by the disease from which he formerly suffered.*
- (5) *I last saw the said John Smith on the date of swearing this my affidavit, when he was of the same sound state of mind as above described.*

Sworn, &c.

* *The two medical affidavits on which an order for an Inquisition was made.*

Form of Second Medical Affidavit.

(Formal heading, &c.)

- (1) *I have perused copies of the affidavits of* , respectively sworn in this matter on the , 1896.*
- (2) *At the request of Dr. , I, on the day of , 1905, visited the above-named John Smith at for the purpose of ascertaining his state of mind. I conversed with him on ordinary topics, and also examined him with reference to the delusions and symptoms from which he formerly suffered.*
- (3) *I found the said John Smith calm, collected, and rational in his manner and conversation, and was unable to discover any trace or sign of unsoundness of mind.*
- (4) *In my judgment and opinion the said John Smith is now of sound mind and understanding, and perfectly competent for the government and management of himself and his property.*
- (5) *I last saw the said John Smith on the date of swearing this my affidavit, when he was of the same sound state of mind as above mentioned.*

Sworn, &c.

The petition and the affidavits in support are sent by the Lunacy Officials to one of the Lords Justices, who will either make or refuse the order as he may deem right (see Rules 18, 23 and 24 in Appendix A.). The Judge generally sees the patient in his private room after 4 o'clock, and if necessary he may also send a Visitor in Lunacy to see the patient and report to him.

It is usual, in the event of the Committee opposing the application, to brief Counsel on both sides to argue the matter before the Judge; and it may here be mentioned that occasionally the health of the patient, although not wholly

* *The two medical affidavits on which an order for an Inquisition was made.*

restored, may have improved to such an extent as to justify the Judge in making an order for a partial Supersedeas, *e.g.*, giving the patient the control of himself, but not of his property. (As to this, see sections 105 and 106 of the Lunacy Act, 1890.)

The order for a Supersedeas is drawn up by the Officials in Room 210, and the engrossment thereof will have to be stamped by the petitioner's solicitor with a £2 stamp. When this has been done, the Officials in the same room prepare a document termed the Writ of Supersedeas, which is sent by them to the House of Lords, where a formal seal is attached thereto. As soon as the petitioner's solicitor has obtained from the Lunacy Office the Writ of Supersedeas he may consider the matter closed, as such document will be an ample authority to third persons to pay the petitioner his rents, dividends, and annual income in the future.

Other Cases in which the Patient recovers his Sanity.

In cases where proceedings were originated by summons under sub-sections (c), (d), (e), or (f) of the 116th section of the Lunacy Act, 1890, it will be necessary, in the event of the patient recovering his (or her) sanity, to apply by summons to the Masters in Lunacy to discharge the order formerly made. There is no special form of summons, and any form which asks for what is required will probably meet the circumstances of the case. Perhaps one somewhat in the following form might be used, viz.:—

In Lunacy.

In the matter of John Smith, late a person
of unsound mind, not so found by
Inquisition.*

Let all parties concerned attend the Master in Chambers

* If the application is to set aside an order made under sub-section (d), the title will of course be:—

“In the matter of John Smith.

“And in the matter of the Acts 53 Vict. c. 5, and 54 & 55 Vict. c. 65.”

at the Royal Courts of Justice, London, on day,
the day of , 1905, on the hearing of an appli-
cation on the part of the above-named John Smith that—

- (1) *The order dated the day of appointing Thomas Smith Receiver may be superseded, and the said Thomas Smith may be discharged from being such Receiver; and that all necessary and proper orders and directions may be given for vesting the property of the applicant in such applicant, and for enabling him to receive the rents, profits, dividends, and annual income of his real and personal estate.*

[If necessary, add any one or more of the following clauses:—

- (2) *For transfer of funds out of Court to applicant (see forms on pages 136 and 137).*
(3) *For taxation and payment of costs (see forms on pages 135 and 136).*
(4) *The Receiver may be ordered to furnish an account (see form on page 136), and any other necessary clause.]*

Dated this day of , 1905.

This summons was issued by, &c.

To the above-named

Thomas Smith, and to

The above summons will be issued in Room 213, supported by two medial affidavits similar to the ones used on an application for a Supersedeas by Petition (see pp. 143 to 145). The order will be made by a Master, and will be drawn up as explained on p. 56.



APPENDIX A.

THE RULES IN LUNACY, 1892.

Dated 6th February, 1892.

PRELIMINARY.

1. *Short Title.*—These Rules may be cited as the Rules in Lunacy, 1892.

2. *Commencement of Rules.*—These Rules shall come into operation on the 1st March, 1892, and as from that date the Rules in Lunacy, 1890, and the Orders in Lunacy of the 5th March, 1891, and of August, 1891, shall be annulled.

As to the authority for making these rules, see Lunacy Act, 1890, s. 338 (2).

3. *Pending Proceedings.*—Pending proceedings shall be carried on according to the provisions of these Rules, so far as possible, and subject thereto according to the practice heretofore subsisting, and in case of doubt as to the mode of procedure, in such of those modes as the Masters direct. The provisions of these Rules shall be subject to variation by special order in any case, and shall apply only where no express directions are given by any special order concerning any of the matters provided for in these Rules, or so far as such directions do not extend. In all matters not provided for by these Rules, the mode of procedure heretofore in force shall continue to be followed.

A cause is pending when any proceeding can be taken in it. (*Re Claggett, Fordham v. Claggett*, 20 C. D. 653.)

4. *Month means Calendar Month.*—Where in any order the time for doing any act or taking any proceeding is limited by months, and where the word “month” occurs in any document which is part of any legal procedure under these Rules, such time shall be computed by calendar months unless otherwise expressed.

In a legal document not subject to this rule, the meaning of “month” is a lunar month in the absence of evidence to the contrary. (*Bruner v. Moore*, (1904) 1 Ch. 305.)

For statutory definition, see Interpretation Act, 1889, s. 3.

This rule is identical with Ord. LXIV. r. 1. See Annual Practice.

5. *Exclusion of Sundays, &c.*—Where any limited time, less than six days from or after any date or event is appointed or allowed by these Rules, or any order for doing any act or taking any proceeding, Sunday, Christmas Day, and Good Friday shall not be reckoned in the computation of such limited time.

This rule is practically identical with Ord. LXIV. r. 2. See Annual Practice and notes thereto.

6. *Time expiring on Sunday or close day.*—Where the time for doing any act or taking any proceeding under these Rules, or any order, expires on a Sunday or other day on which the offices are closed, and by reason thereof such act or proceeding cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken if done or taken on the day on which the offices shall next be open.

This rule is identical with Ord. LXIV. r. 3. See Annual Practice and notes thereto.

7. *No. of days, how computed.*—In any case in which any particular number of days, not expressed to be clear days, is prescribed by these Rules or any order, the same shall be reckoned exclusively of the first day and inclusively of the last day.

“Clear days” will therefore exclude the first and last days.

This rule is practically identical with Ord. LXIV. r. 12. See Annual Practice and notes thereto.

8. *Power to enlarge or abridge time.*—The Judge in Lunacy (in these Rules called the Judge) and the Masters may enlarge

or abridge the time appointed by these Rules or fixed by any order enlarging time, for doing any act or taking any proceeding upon such terms (if any) as the justice of the case requires, and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed.

This refers only to time appointed by these rules or fixed by any order. It will not extend to time fixed by statute.

See Annual Practice, Ord. LXIV. r. 7, and notes thereto.

9. *Forms.*]—The forms in the Schedule may be used in the cases in which they are applicable, with such variations as the circumstances require.

THE MASTERS.

10. *Masters to make Orders.*]—The Masters may make orders as regards administration and management, and they may direct by whom and in what manner the costs of any proceedings are to be paid.

Cf. Lunacy Act, 1891, s. 27 (1).

“**Administration and management.**”—See sects. 116—131, Lunacy Act, 1890: but administration and management are not limited to these sections. See *Re Browne*, (1894) 3 Ch. 417.

A Master may make a vesting order if it come within administration and management (*Re Fuller*, (1900) 2 Ch. 551; see r. 57, *infra*); not otherwise (*Re Langdale*, (1901) 1 Ch. 3).

Appointment of a receiver relates to administration and management. (*Re Browne*, (1894) 3 Ch. 417.)

The Master will consider the lunatic's maintenance before creditors. (*Re Plenderleith*, (1893) 3 Ch. 332.)

Probate.—Lunatic Administrator. For the practice, see *Re goods of Cooke*, (1895) P. 68. See also Tristram and Coote's Prob. Practice, “Lunatic.”

11. *Appeal from Orders of Masters (Forms 2, 3).*]—Any person affected by any order, decision, or certificate of a Master may appeal therefrom to the Judge without a fresh summons upon giving notice of appeal within eight days from the date of the order, decision or certificate complained of, or such further time as may be allowed by the Judge or Master. The Notice of Appeal shall be given to the persons (if any) interested in supporting the order, decision or certificate, and a copy thereof shall, within the aforesaid period

of eight days, be left at the Masters' office, and the Masters shall thereupon bring the matter before the Judge.

Cf. Ord. LIV. r. 21. See Annual Practice and notes thereto; and also pp. 106 to 108, *ante*.

Appeal to Court of Appeal.—By Judicature Act, 1873, s. 18 (5), an appeal from any Judge's order in lunacy lies to Court of Appeal.

Judge's order (notwithstanding sect. 49, Judicature Act, 1873) includes an appeal from Judge as to costs of unsuccessful petition. (*Re Cathcart*, (1893) 1 Ch. 466.)

12. *Masters to communicate with and attend the Judge.*—The Masters may communicate personally with the Judge with regard to any matter pending before them, when any point appearing to them to be novel or difficult arises, and they shall, when requested by the Judge so to do, attend to give any information or assistance he may require.

This is a practice rule affecting the internal management of the Lunacy Office.

13. *Attendance in Court.*—Such one of the Masters, or their clerks, as the Masters with the concurrence of the Lord Chancellor direct, shall attend in Court upon the hearing of any application, and shall take a note of the order made by the Court.

A practice rule affecting the management of the Lunacy Office.

14. *Masters to inquire into Delay.*—*The Masters shall inquire into the circumstances of any delay in the conduct of proceedings before them or in proceeding upon their orders, certificates, and directions, and for that purpose may call before them all parties concerned, and may certify accordingly where it seems to them expedient.*

This rule is repealed by the Lunacy Rules, 1893.

15. *Masters may act jointly and severally.*—Wherever the Masters are referred to in these Rules, they shall be deemed to be referred to jointly and severally, and everything to be done by or before the Masters may be done by or before them or either of them, but all applications relating to the same person or his property shall, so far as convenient, be dealt with by the same Master.

In practice, Masters always act severally; when once a summons has been issued, all applications in the same matter are made to one and

the same Master. Summonses are allotted to Masters in turn, and parties cannot select a Master. Similarly, since 1904, the official who draws up the first order in any matter deals with all subsequent points in the same matter.

MODE OF APPLICATION.

16. *Application for Order for Inquisition (Form 4).*—Applications for an order for inquisition, except in cases under section 100 of the Lunacy Act, 1890, shall be made by petition. The petition shall be signed by the petitioner and attested by a solicitor.

“**A solicitor.**” Not necessarily the petitioner's solicitor.

The exception under this rule is where the Commissioners report that the property of any person detained or taken charge of as a lunatic, but not so found by inquisition, is not duly protected, or that the income thereof is not duly applied for his benefit. This is deemed to be an application supported by evidence, and the case proceeds accordingly. See Rule 27, *infra*.

A petitioner who first presents a petition for inquisition has *prima facie* the best claim to the conduct of the commission. A wife has no paramount claim over children to the conduct. (*Re Wood*, 1 L. T. 119.)

The inquisition is to be confined to the question whether the alleged lunatic is at the time of the inquisition of unsound mind, and evidence as to anything done or said by him more than two years before the time of the inquisition is not usually admissible. (Lunacy Act, 1890, s. 98 (1).) If it appears that an alleged lunatic is of unsound mind, so as to be incapable of managing his affairs, but that he is capable of managing himself, and is not dangerous to himself or others, it may be so specially found and certified. (Lunacy Act, 1890, s. 98 (2).)

If the petition is presented by a stranger in blood, the nearest relation of the lunatic must be served. Similarly, a husband or wife not being a petitioner should be served.

Misstatement.—Wilful misstatement of any material fact in the petition is a misdemeanour. (Lunacy Act, 1890, s. 317.)

17. *Application for Traverse and Supersedeas and for Vesting Orders.*—Applications for a traverse and for a supersedeas, and applications under that portion of the Lunacy Act, 1890, which relates to “Vesting Orders,” shall also be made by petition.

This rule has been annulled, and, except as to vesting orders, re-enacted by rule dated the 29th October, 1900. See notes thereto, *infra*.

18. *Petitions for Inquisition, Traverse, and Supersedeas to be brought before Judge.*—Every petition for an order for

inquisition, for a traverse, and for a supersedeas, and the evidence in support thereof, shall be filed in the Masters' office, and shall be brought before the Judge without previous consideration by the Masters.

For form of petition for inquisition, see pp. 59, 60.

For form of petition for *supersedeas*, see p. 140.

Traverse.—Application for a traverse must be made to the Judge within three months from the return of the inquisition. (Lunacy Act, 1890, s. 101.) Not allowed on an issue tried in High Court. If the Judge is dissatisfied, a new trial may be ordered. (*Ibid.*, s. 104.)

19. *Other Applications to be by Summons.*]—All other applications under the Lunacy Acts, 1890 and 1891, or under those Acts, and also in the Chancery Division, shall, unless the Judge or Masters shall in any particular case otherwise direct, be made by summons at Chambers before the Masters.

Action by Lunatic.—If a lunatic be of unsound mind so found, or though not so found a receiver of his estate has been appointed, leave or directions to sue must be obtained from the Master in Lunacy, and the receiver or committee must be added as co-plaintiffs. For form of writ, see p. 133.

If of unsound mind not so found, and no receiver has been appointed, such a person sues by his next friend. See *Farnham v. Milward*, (1895) 2 Ch. 735.

Action against Lunatic.—A lunatic appears to a writ by his committee or receiver, as the case may be. Directions should be taken from Master in Lunacy. If no appearance be entered by a person of unsound mind not so found, plaintiff should apply under Rules of Supreme Court, Ord. XIII. r. 1, for a guardian *ad litem*. See Annual Practice. See also as to parties, Ord. XVI. r. 17.

20. *Applications under Lands Clauses Acts, Settled Estates Acts, Settled Land Acts, and other Acts.*]—In all cases in which the Judge has, under the Lands Clauses Acts, the Settled Estates Act, 1877, the Settled Land Acts, 1882 to 1890, or any other enactment, jurisdiction to make an order upon petition affecting the property of a lunatic, the application for the order shall, unless the Judge or Master in any particular case otherwise directs, be made by summons at Chambers before the Masters.

Lands Clauses Acts.—The committee is the proper person to sell under sect. 7, Lands Clauses Consolidation Act, 1845. (*Re Tugwell*, 27 C. D. 309.)

The proceeds of lands sold under these Acts should be paid to the

credit of the Lunacy direct, not into Court under the Lands Clauses Consolidation Acts. The application will be in Lunacy and in Chancery; and in the matter of the Railway Act, if any; or as the case may be. (*Re Milnes*, 1 C. D. 28; *Re Buckingham*, 2 C. D. 690.)

Rent-charge. Release by committee. (See *Re Brewer*, 1 C. D. 409.) The costs of all proper parties to the lunacy proceedings will be payable by the purchasing company under the Lands Clauses Consolidation Acts. (*Re Briscoe*, 2 De G. J. & S. 249.)

Settled Estates Act, 1877, and Settled Land Acts, 1882 to 1890.—The Court cannot appoint a guardian to concur in a sale of his estate on behalf of a lunatic so found. (*Re Clough's Estate*, 15 Eq. 284.)

The committee, if the lunatic be so found, or the receiver, under sect. 116, Lunacy Act, 1890, should concur with leave of the Master in Lunacy. As regards leasing, see *Re Salt*, (1896) 1 Ch. 117. Where a sale is desired by a tenant for life of unsound mind, the lunatic should be so found. (*Re Baggs*, (1894) 2 Ch. 416.) For covenants by committee, see *Re Ray*, (1896) 1 Ch. 468. For sale of an undivided share of a lunatic, see *Re Weld*, 28 C. D. 514; *Re Gaitskell*, 40 C. D. 416. Where the settlement itself gives a power of sale to the tenant for life, the case is outside the Settled Land Acts and the case of *Re Baggs*, *supra*. (See *Re X.*, (1894) 2 Ch. 415.)

21. *Costs of Petitions not to be allowed.*—If in any case in which the application is not by these Rules or by the Judge or Masters directed to be made by petition, a petition is presented without the direction of the Judge or Masters, no further costs shall be allowed than would be allowed upon a summons.

This rule is meant to apply to cases which should have been commenced by summons under sect. 116 of the Lunacy Act, 1890, instead of by petition, when costs of petition may be disallowed.

22. *In matters not relating to Administration and Management Masters to prepare Minutes of Order for the Judge.*—All applications, except those by these Rules directed to be brought before the Judge without previous consideration by the Masters, shall be considered by the Masters, and if the application does not relate to administration and management the Masters shall prepare the minutes of such order, if any, as they think should be made, and shall bring the application with the evidence and the minutes of the proposed order before the Judge.

The operation of this rule is confined to those cases in which the application is made under the Chancery jurisdiction. Summonses for vesting orders where the aid of Chancery jurisdiction is sought, and summonses under Lands Clauses Act, Settled Land Act, Settled

Estates Acts, and Acts of a public improvement character, where compulsory powers of sale are exercisable against the lunatic, would seem to form the subject of this rule. Such summonses are headed in Lunacy and in Chancery. See p. 110, *supra*.

See Rule 58, *infra*, on titles.

23. *Matters to be brought before Judge out of Court.*—All matters which require to be brought before the Judge shall be brought before him out of Court. The Judge may make an order upon any summons or petition without attendance of counsel, solicitors, or parties, or after such attendance, or may adjourn the summons or petition into Court, or refer the same to the Masters for inquiry, or further inquiry, upon any matter. Any matter may be adjourned from Court for consideration by the Judge out of Court.

The papers having been duly lodged at the Lunacy Office are forwarded by the Master to the Judge; no action on the part of the litigant is required or necessary, at any rate, in the first instance. After the Judge has considered the matter, the litigant must attend the Lunacy Office and inquire for any queries raised by the Judge. When all outstanding points have been dealt with, the order is drawn up in like manner to a Master's order.

In petitions for a supersedeas the application is for leave to attend the Judge and be examined by him; the Judge will usually see the patient in his private room after 4 p.m.

24. *Power to order or dispense with Service.*—The Judge and Masters respectively may direct any person to be served with notice of any application, and may dispense with service on any person.

“**To be served.**”—Service on third parties is sometimes requisite in order to get their attendance before the Master, without which no order on them can be made.

No service on a lunatic is generally needed without directions after the first order has been made.

See also notes to Rule 39.

25. *Only one Summons to be issued on the same Application.*—Every application by summons to be brought before the Judge shall be brought before him upon the original summons, and until the application is finally disposed of it shall not be necessary to issue any further summons upon any appointment. Where an application by summons is directed to be served on any party, it shall not be necessary to issue a

fresh summons, but the original summons may be served with such amendments (if any) as the circumstances require.

Where an affidavit of service of an amended summons is required, such affidavit should prove that the amendments on the original summons were duly endorsed on the copy summons handed to the respondent.

Summonses are issued in Room 213. No fee is payable on issuing.

THE INQUISITION.

26. *Notice of Petition for Inquisition (Form 5).*—The notice to an alleged lunatic of a petition for an order for inquisition shall be by service on him of a copy of the petition with a notice thereon endorsed signed by the petitioner or a solicitor. Such notice shall be in the Form 5 in the Schedule, or to that effect.

The costs of the alleged lunatic's solicitor properly incurred will be provided for, if necessary, out of the lunatic's estate (*Re Cathcart*, (1893) 1 Ch. 466), and in a proper case of the petitioner also (*Re Cathcart, ubi supra*).

For form of notice to be endorsed on the petition, see page 64.

27. *Notice of Report of Commissioners.*—The notice to an alleged lunatic of a report of the Commissioners under section 100 of the Lunacy Act, 1890, shall be in the Form 6 in the Schedule, or to that effect.

See note to Rule 16, *supra*.

An office copy of the Report of the Commissioners is usually forwarded to the official solicitor, with instructions to take the necessary steps thereunder.

28. *Order not to be made until Seven Days after Notice.*—No order shall be made upon any such petition or report until after the expiration of seven clear days from service upon the alleged lunatic of notice of the petition or report.

"Clear days." See note to Rule 7, *supra*.

The notice required by this rule is endorsed on the petition or report, and the documents are then served together. For form of notice, see page 64.

29. *Service of Notice.*—Such notice shall be served on the alleged lunatic by being delivered to him personally, or where personal service cannot be effected or is inexpedient, then by being delivered to some adult inmate at the dwelling-house or usual or last known place of abode of the alleged lunatic

within the jurisdiction, and an affidavit of service, stating particularly the time, place, and mode of service, and where there has not been personal service, the grounds of such service not having been made, shall be filed with the Masters.

For forms of affidavit of service, see pages 64 and 65.

The affidavit should prove service of petition or report, and also of the notice endorsed. Further, where possible, it should prove the signature of the solicitor to the notice.

Sometimes a second affidavit to prove this signature will be necessary, e.g., where service is effected through an agent, and the latter is unable, of his own knowledge, to depose to the authenticity of the signature of the solicitor to the applicant.

30. *How Demand of a Jury to be made (Form 7).*—An alleged lunatic may, either by notice filed with the Masters at any time before the consideration of the petition or report, or by himself, his counsel or solicitor, upon such consideration, demand an inquisition before a Jury. A notice demanding a Jury shall be signed by the alleged Lunatic and attested by a solicitor.

Generally the lunatic is entitled to a jury; see, however, sect. 92, Lunacy Act, 1890.

If lunatic be out of the jurisdiction, the inquisition must be before a jury: sect. 96, *ibid.*

For cases where a jury may be dispensed with, see sect. 92, *ibid.*

Subject to this, the granting or not of a jury is within the discretion of the Judge or Masters.

A demand for a jury, if made, can only be withdrawn at the hearing (Lunacy Act, 1890, s. 90 (3)), and, *semble*, should still be by the alleged lunatic, his counsel, or solicitor orally. (*Re Crompe*, L. R. 4 Ch. 653.)

See also page 66, as to a jury.

Issue.—Inquiries before a jury may be made by means of an issue in the High Court. (Lunacy Act, 1890, s. 94 (1).) A Master may direct the trial of the issue. (Lunacy Act, 1891, s. 26 (1).)

Where an issue is directed to be tried in the High Court under the Lunacy Act, 1890, s. 94, a writ need not be issued. (*Re Scott*, 27 C.D. 116.)

If the judge is dissatisfied with the result of an issue a new trial may be ordered. (Lunacy Act, 1890, s. 104.)

The allowances to jury and witnesses are usually very much on the same scale as in common law proceedings.

See also Rule 113.

PROCEEDINGS AFTER INQUISITION.

31. *Summons for Inquiries after Inquisition found.*—Subject to the provisions of these Rules as to inquiries respecting the next-of-kin and heir-at-law of a lunatic, the party having the conduct of the proceedings shall, immediately after

inquisition found, take out a summons to inquire into the matters following :—

- (a) The lunatic's age, position in life, and residence.
- (b) The nature of his lunacy.
- (c) Who are his next-of-kin and heir-at-law.
- (d) Who ought to be appointed committee of his person and of his estate.
- (e) Of what his property consists, and the particulars thereof.
- (f) The amount of his income.
- (g) In what manner, and at what expense, and by whom, and where, he has been maintained; what should be allowed for his past maintenance; what, if anything, is due, and to whom, in respect thereof, and to whom and out of what fund the same ought to be paid.
- (h) What should be allowed for future maintenance, when the allowance ought to commence, and out of what fund it should be paid.

For forms of summons, see pp. 70—73.

(c) Next of kin are kindred both of the whole and half blood. Relations *ex parte paterna* have no priority over those *ex parte materna*.

(d) Other things being equal, the heir-at-law is usually preferred as committee of the estate, and one of the next of kin as committee of the person. The person having the conduct of the inquiry is not entitled as of right to say who shall be appointed committee, though he may make suggestions on the subject. The persons appointed will be those who, in the view of the Master, will have the greatest regard for the care and comfort of the lunatic, and will take the best care of his property.

In certain cases, where a lunatic is capable of managing himself, and is not dangerous to himself or others, the Judge in Lunacy has discretion (while making orders as to the patient's estate and maintenance) to refrain from making any order as to the custody of his person. (Lunacy Act, 1890, s. 108 (3).)

(e) The Judge in Lunacy can dissolve a lunatic's partnership. (Lunacy Act, 1890, s. 119.)

Should it be necessary or desirable to continue the lunatic's business for the benefit of himself and his family, conclusive evidence will be required—

- (i.) That the business has been conducted profitably in the past; and
- (ii.) That it is likely to be so conducted in the future.

The Masters in Lunacy will, if they sanction the continuation of the business, keep in touch with the concern by requiring that frequent accounts be passed.

The committee is not personally liable on trade contracts. (*Isaacs v. Chinery*, 74 L. T. 320.)

(g) *Past maintenance* is in the nature of a debt (see r. 33, *infra*), and only six years' arrears may be allowed. (*Re Weaver*, 21 C. D. 615.)

Necessaries.—An obligation may be implied on the part of a lunatic, whether so found or not, to pay for necessities supplied to him; but there must be an intent to constitute a debt. (*Re Rhodes*, 41 C. D. 94.)

(h) The Court will provide maintenance out of the fund most advantageous to the lunatic. (*Re Ashley*, 1 Russ. & M. 371. See also *Gisborne v. Gisborne*, 2 A. C. 306.)

Where a sum of money has been paid into Court under the Trustee Acts for the lunatic's benefit, application for a sum for maintenance thereout must be made in Lunacy and not in Chancery. (*Re Barker*, W. N. (1904) 13.)

Allowances to relations, &c.—The Court will make allowances out of the lunatic's estate, even to collaterals, in a proper case. The test is: "Would the lunatic have done so himself?" (*Ex parte Whitbread*, 2 Mer. 99.) The practice, however, of making allowances to persons for whom the lunatic is not bound to provide, is to be narrowed rather than extended. (*Re Evans*, 21 C. D. 297; and *Re Clarke*, 2 Phil. 282.) Allowances may be made to illegitimate children, but not to the mother. (*Ex parte Haycock, re Jones*, 5 Russ. 154.)

32. Masters' Order.]—The Masters may make such order on the summons in the last preceding Rule mentioned as they think expedient.

Order of Master in Lunacy is *prima facie* evidence of the facts stated therein. (*Harvey v. Rex*, (1901) A. C. 601.)

33. Inquiries as to Debts.]—The Masters may, when it seems to them expedient, inquire what undisputed debts (if any) are due from the lunatic, and to whom, and whether the same or any of them ought to be paid, and out of what property, and they may make orders for the settlement or payment thereof, and for the compromise of any disputed claim against the lunatic or his estate.

Creditors.—The Masters will consider the lunatic's interest first. (*Re Plenderleith*, (1893) 3 Ch. 332.) The power of making orders, for rendering the small property of a lunatic available for his maintenance or benefit, is not to be exercised for the purpose of enabling creditors to obtain payment. (*Re Price*, 34 C. D. 603; and Lunacy Act, 1890, s. 116 (5).) For rights of creditors and method of enforcing their claims, see *Re Pink*, 23 C. D. 577. For creditor's charging order, see *Horne v. Pountain*, 23 Q. B. D. 264; *Re Brown*, (1900) 1 Ch. 489.

Where the trustee in bankruptcy of a lunatic is in possession, the Court in Lunacy cannot order him to pay money into Court to the credit of the lunacy, nor can the trustee be ousted. (*Re Farnham*, (1896) 1 Ch. 836.)

Execution.—Where a lunatic's property is subject to the control of the Court in Lunacy, it cannot be seized under a writ of *fi. fa.* by an execution creditor. If, however, an execution creditor seizes under legal process before an order is made by the Court in Lunacy, he cannot

be ousted. *Mere issue of a summons will not exempt the lunatic's property from legal process by a creditor. (Re Clarke, (1898) 1 Ch. 336.)*

A fund not under the control of the Court in Lunacy may be seized by a creditor. (*Re Brown, (1900) 1 Ch. 489.*)

Vendor's Lien.—See *Davies v. Thomas, (1900) 2 Ch. 462.*

Maintenance.—Lunatic's maintenance will have priority over creditors (see *Re Winkle, (1894) 2 Ch. 519*, for form of order, and *Re Plenderleith, (1893) 3 Ch. 332*), but not his wife's maintenance. (*Re Winkle, supra.*) This will not, however, affect a creditor's execution on a fund out of the lunacy jurisdiction, e.g., a fund in the High Court. (*Re Brown, (1900) 1 Ch. 489.*) See also r. 31, sects. (g) (h), notes, *supra*. A lunatic's wife may be allowed something as against guardians' claim in the case of a pauper lunatic. (See *Re Tye, 81 L. T. R. 743.*)

Pauper.—The maximum amount chargeable against the guardians for the maintenance of a pauper lunatic must not exceed 14s. a week. (*Fitch v. Bermondsey Guardians, 91 L. T. 655*; see sect. 283, Lunacy Act, 1890.)

Pensions.—Military, naval, civil. In certain cases these pensions may, subject to the discretion of the departments paying the same, be made available for payment of the maintenance of the pensioner without any order in lunacy having been made, and the balance, if thought fit, paid to the wife and relatives for their maintenance. (Lunacy Act, 1890, s. 335.)

Bankruptcy.—A lunatic can be adjudicated bankrupt under the direction of his committee with the consent of the Court in Lunacy; but whether he can be so adjudicated independently of the Court in Lunacy, *quære*. (*Re Farnham, (1895) 2 Ch. 799.*)

Undisputed Debts.—Where estate is more than sufficient for maintenance and comforts, the Masters will direct payment by committee or receiver of all undisputed debts. The names of solicitors for committee or receiver can usually be obtained from Room 213, and particulars of the debt should be sent to such solicitors, whose duty it will then be to bring the matter to the Master's notice and take his directions.

Where there is no surplus, or the estate is insufficient for maintenance, &c. except by resort to capital, it is the Masters' practice to ignore creditors, considering that the patient's comfort is their first consideration, and this takes precedence of debts. (*Re Pink, 23 C. D. 577.*) In such a case creditors can abandon all hope of being paid. It is submitted that, if he be sued for debt, the committee or receiver would be protected by the Master's order.

Disputed Debts.—Where the facts in dispute are simple and there can be no necessity for cross-examination of witnesses, the claimant's advisers should write to the solicitor for committee or receiver offering to submit to the lunacy jurisdiction, and asking that a summons be issued and served on themselves for the Master's decision on the claim. This would be the cheapest method of deciding the matter. More usually it will be necessary to commence proceedings in the King's Bench Division. In such a case a writ should be issued against the lunatic, treating him for the purposes of the endorsement thereon as though he were sane. The solicitor for the committee or receiver should then be informed of the issue of the writ and given short par-

ticulars thereof, and should be requested to apply to the Master for leave to accept service on behalf of the patient. Should the Master decline to help the claimant in any way, he will eventually be obliged to adopt the ordinary rules laid down for service of persons of unsound mind. (See Ord. IX. r. 5, Annual Practice, and notes thereto; Daniell's C. P. 7th ed. 136.)

Secured Creditors.—The above remarks do not apply where creditors are in a position to issue execution or sell the property of a lunatic not in the custody or under the control of the Court. (*Re Clarke*, (1898) 1 Ch. 336.)

Charging Order.—See what is said on this subject in notes to Rule 67, *infra*.

34. *Inquiries as to Dealings with Lunatic's Estate before Inquisition.*—The Masters may make such inquiries as they think fit respecting any dealings with the lunatic's estate and the application of the same prior to the date of the inquisition, and respecting the state and condition of the lunatic at the time of such dealings, whether a summons for any such inquiry is pending before them or not.

Under this rule the Master can inquire into the dealings with a lunatic's property under a power of attorney, and into the lunatic's condition at the date of execution of the power. See Chap. I. and the cases in which a power of attorney can be acted upon.

35. *Inquiries as to Property of Lunatic out of Jurisdiction.*—The Masters may inquire whether any person resident out of the jurisdiction has by the law of the place where such person resides been found or declared a lunatic, and whether his estate or any part thereof has been vested in a curator or other person appointed for the management thereof according to such law, and whether or not any property within the jurisdiction is vested in the lunatic and what is his interest therein.

As to lunatics so found in Ireland and proceedings in England, and *vice versa*, see Lunacy Act, 1890, s. 107, and *Re Tottenham*, 2 Myl. & Cr. 39.

Where a foreign judicial declaration has been made as to the status of a lunatic, the Chancery Court may order a transfer of funds to which the lunatic is entitled to the foreign "tuteur" (*Thiery v. Chalmers, Guthrie & Co.*, (1900) 1 Ch. 80; *New York Security and Trust Co. v. Keyser*, (1901) 1 Ch. 666), as also the Court in Lunacy, (*Didisheim v. London and Westminster Bank*, (1900) 2 Ch. 16); but the Court in Lunacy cannot do so when there is no such declaration (*Didisheim v. London and Westminster Bank*, *supra*). The Chancery Court can do so, (*Didisheim v. London and Westminster Bank*, *supra*). See also *Re Carr's Trusts*, (1904) 1 Ch. 792). For form of order, see *Didisheim v. London and Westminster Bank*, *supra*; and also *Caswells v. Sheen* (1893), W. N. 187. But the foreign curator or administrator is not entitled to an order as of right, (*Re Knight*, (1898) 1 Ch. 257).

36. *No Inquiry as to Next-of-kin and Heir if Fees not payable.*—Where an order is made exempting the property of a lunatic from payment of fees, the Masters shall not, during the continuance of the exemption, inquire respecting his next-of-kin and heir-at-law unless they think it expedient.

In very small cases, where the income from the patient's estate is under £50 per annum, the Masters sometimes remit the fees, i.e., stamps on orders and certificates. This is purely discretionary with the Masters, and, if adopted, the order is endorsed "No fee." (See Lunacy Act, 1890, s. 148 (4).)

Accounts.—In small cases accounts, or affidavits in lieu of accounts, may be dispensed with. Where this is done, the Lunacy Office write a letter yearly or once in two years to the receiver or committee, asking for production of vouchers for maintenance and other payments, transcript of Paymaster-General's account, and certificate of fund in Court. From a perusal of these documents it can then be seen whether the terms of the order are being complied with.

37. *Masters may defer and limit and dispense with Inquiry as to Next-of-kin and Heir.*—The Masters may in any case defer an inquiry respecting next-of-kin and heir-at-law, or carry on the inquiry to such limited extent only and under such restrictions as they think expedient, and they may direct that persons claiming to be next-of-kin or heir-at-law be left to make out their claim at their own expense, and may in any case, if they think it expedient, wholly dispense with the inquiry.

Any evidence under this rule need not be a matter of strict proof unless so required. (*Vide* Rule 38.)

The facts as to the next of kin and heir-at-law are stated in the affidavit of kindred and fortune. (See forms, pp. 38—54.)

38. *Strict Proof of Pedigree may be dispensed with.*—Where the Masters are of opinion that it is expedient that strict proof of pedigree should not be gone into, they may dispense with the same to such extent and in such manner as they think fit, and may require and receive such evidence as they think sufficient respecting the family and next-of-kin or heir-at-law.

Strict proof of pedigree is now very rarely required. It was formerly asked for in the case of next of kin or heir-at-law claiming to be entitled to a deceased lunatic's property in Court, but in consequence of the fact that now the legal personal representative administers both real and personal estate, strict proof would appear to be quite unnecessary.

39. *Power to dispense with or disallow Attendance of Heir or Next-of-kin.*—The Masters may dispense with and disallow the attendance on the proceedings of the heir-at-law or of all or any of the next-of-kin, either wholly or except at their own expense, or except upon special leave first obtained, and such notice only of attending the proceedings shall be given as the Masters shall direct.

In cases where proceedings are originated by petition, the practice is to serve the heir-at-law and next of kin.

Where commenced by summons, such service is not necessary, and will be disallowed on taxation. It is, however, usual and proper to write a letter giving notice to both next of kin and heir-at-law of such application by summons, so that they may have an opportunity of attending the hearing at their own expense, if they desire to do so. Even where a sale of freeholds is contemplated, service on heir-at-law may be dispensed with, as the proceeds of sale can be carried to a separate account, and ear-marked accordingly. (Lunacy Act, 1890, s. 123.)

40. *Masters to determine who is to attend the Proceedings.*—Subject to the provisions of these Rules, the Masters shall, once in the matter of each lunatic so found by inquisition, and may as often as they think it expedient, determine which, if any, of the next-of-kin and what other persons, if any, are to attend the proceedings or any particular proceeding, and only those persons, if any, to whom the Masters have given leave to attend shall be entitled to notice of or be allowed to attend on any proceeding at the cost of the estate, except by special leave first obtained.

It is believed that the Masters have never given any directions under this rule, but if next of kin are represented by more than one solicitor, only one set of costs will be allowed.

See also note to Rule 39, *ante*.

41. *Power to appoint Guardian of Infant.*—Where an infant being one of the next-of-kin has no guardian, the Masters may appoint a proper person to be his guardian for the purposes of the lunacy, and the person so appointed shall have the same powers, authorities, and discretion as a guardian *ad litem* appointed by the Chancery Division of the High Court. The Masters may revoke any such appointment and appoint another person to be guardian.

Occasion for the exercise of this power does not often arise. The applicant should be prepared with the name of some satisfactory

proposed guardian, in default of which the official solicitor may be appointed.

There is no objection to a solicitor as guardian *quā* solicitor, but objection may arise in consequence of his being an accounting party.

42. *Power to consolidate Matters and to use Evidence in other Matters.*—The Masters, if it seems to them expedient, may consolidate and carry on together similar proceedings before them in the matters of several persons being members of the same family, and may in any case use in the matter of one member of a family evidence filed in the matter of any other member of the same family.

Where a simultaneous application is made with reference to two members of the same family, so far as is applicable and necessary, one set of evidence only is requisite, which should be intituled in the matter of both patients.

Although it may be useful to utilise evidence in two or more matters, in practice it has been found very inconvenient to be limited to one order.

Separate applications and evidence will be allowed on taxation.

43. *Power to determine what Solicitors are to represent the Parties.*—The Masters may direct that several parties appearing before them by different solicitors shall appear by the same solicitor, or that several parties appearing before them by the same solicitor shall appear by different solicitors. Where parties, directed to appear by the same solicitor, cannot agree upon the solicitor to represent them, the Master may nominate the solicitor; and if any of such parties insists upon appearing by a different solicitor he shall do so at his own cost.

Cf. practice in Chambers in Chancery Division. See Ord. LV. rr. 40, 41, Annual Practice.

44. *Power to receive Deeds and direct Lodgment of Securities.*—The Masters may receive any deed or security belonging to a lunatic, and may by order or certificate give liberty for payment or transfer into Court of any money or stock belonging to a lunatic.

The object of this rule is to reduce the amount of security to be given by the receiver. The rule can be divided into two parts, transfer to custody of the Master and transfers to Paymaster-General.

In practice the deeds or securities actually lodged with the Masters are limited to mortgage deeds, which should be left at the Lunacy Office (not the Central Office), where they will be deposited in the Master's strong room.

The receiver may be appointed to receive dividends without a transfer of the stock into Court (*Re Broune*, (1894) 3 Ch. 412), but this

course will very seldom be adopted, and the usual practice is to transfer into Court.

Other securities, *e.g.*, bonds, scrip, freehold title deeds, &c. can, by direction of the Master, be put into a sealed box and lodged with a bank, to be held by such bank, subject to the Master's directions. This is deemed to be custody for the Master.

Where a receiver or committee is directed, on his appointment, to transfer funds into Court, his security will not be completed till this has been done.

45. *Liberty to deposit Will of Lunatic with Masters.*]—Any person in whose custody or control any testamentary paper of the lunatic is, shall be at liberty to deposit the same in the office of the Masters upon oath, as they may direct, there to remain for safe custody.

For form of affidavit of lodgment, see page 99.

This affidavit should state—

- (1.) How the will came into the deponent's possession.
- (2.) That it is now in the same state and condition as when received by him.
- (3.) If the custody has changed, the affidavit must explain the change and subsequent custody.
- (4.) The will should be in a sealed cover or envelope, and such cover or envelope should be marked as an exhibit.

This rule is optional. If the will be in the custody of a banker or family solicitor, it seems unnecessary to lodge it. It should not be left in the custody of a relation or irresponsible person.

When a will is lodged, a certificate of lodgment is prepared and stamped with a £1 stamp. The office copy of this certificate must be produced when any application is made concerning the will.

46. *On Death of Lunatic, Funds in Court and Effects deposited with Masters to be paid and delivered.*]—On the death of a lunatic or a supersedeas being issued, the Masters may make an order for payment, transfer, or delivery of any funds in Court belonging to the lunatic, or any documents or effects relating to, or forming part of, his estate deposited in their office for safe custody, to the person entitled thereto.

This order will be obtained on summons.

In the event of the lunatic's death the necessary evidence will be probate or letters of administration, and certificate of death exhibited to an affidavit.

Certificate of fund in Court will also be required.

47. *On Death of Lunatic Masters may open Will.*]—The Masters may, on being satisfied of a lunatic's death, open and read any document deposited with them purporting or alleged to contain any testamentary disposition made by him for the purpose of ascertaining who is therein nominated

executor thereof, and whether any direction is contained therein concerning his funeral or place of interment, and may deliver the document to the proper officer of the Probate Division to be dealt with according to law.

Where a lunatic's will has been lodged under Rule 45, on the lunatic's death—

- (a) Where no draft or copy of the will is in the possession of the receiver or committee, application can be made at Room 213 for an appointment before the Master to open the will. At the appointment the Master will open the will and give the necessary information as to executors.
- (b) Where a draft or copy of the will is available, this application will be unnecessary.

In either case an affidavit must be filed, setting out acquaintance with deceased and the patient's death by reference to certificate. (For form of affidavit, see p. 100.)

The solicitor to the executors then writes a letter of request or fills up a request asking that the original will may be forwarded to Somerset House. This request must be stamped with a £1 stamp. An appointment is then given to the solicitor to attend with the lunacy officials at Somerset House, and the will is lodged by the lunacy official in the principal Registry, the solicitor paying a fee of 10s. on lodgment. A plain copy is then bespoken, from which the engrossment for probate is made.

APPLICATIONS AS TO PROPERTY OF PERSONS OF UNSOUND MIND NOT SO FOUND BY INQUISITION.

48. *Notice of Applications as to Property of Person of Unsound Mind not so found by Inquisition* (Form 8).]—In the case of applications respecting the property of any person of unsound mind not so found by inquisition, seven clear days' notice of the application shall be given to such person by service on him of a copy of the summons with a notice indorsed thereon signed by the applicant or a solicitor. Such notice shall be in the Form 8 in the Schedule, or to that effect, and shall be served in the manner in which under these Rules notice of a petition for an order for inquisition is to be served. The summons shall be returnable not less than seven clear days from its date.

This rule applies to all summonses originating proceedings under sect. 116, Lunacy Act, 1890.

Cf. Rule 94, note.

Notice of a Petition for an Order for Inquisition.—See Rule 29, and note.

For form of notice to be endorsed on summons, see p. 34.

Clear days.—See Rule 7.

49. *Affidavit of Service to be filed.*—An affidavit of service stating particularly the time, place, and mode of service, and, where there has not been personal service, the grounds of such service not having been made, shall be filed with the Masters.

For form of affidavit, see p. 35.

Affidavit of Service.—See note to Rule 29.

The same remarks as are applicable to affidavit of service of petition and notice will apply here.

50. *Notice of Objection (Form 9).*—The person so served may file a notice of objection to the application.

For extent of objection, see pp. 57, 58.

Form of notice of objection under sect. 116, sub-sects. (c), (e), (f), see p. 54, under sub-sect. (d), p. 55.

The notice of objection must be witnessed by a solicitor.

51. *Power to dispense with Notice.*—The Masters may, if they think fit, dispense with notice to such person of any application after the first.

No notice of any application after the first should be given to the patient without the Master's directions.

All orders after the first one usually contain a recital (which has become entirely common form) to the effect that the Master has "dispensed with service upon the said" A. B. "of notice of this application."

52. *Masters may visit Persons to whom any Application relates.*—For the purpose of any application before the Masters relating to the property of a person not found lunatic by inquisition, the Masters may, if they think fit, visit such person, or require him to be produced before them, as they direct.

53. *Notice of Application to Next-of-kin or others.*—The Masters may, if they deem it expedient, direct that notice of the application be given to any of the next-of-kin of the person to whom the application relates, or to any other person, and only such persons as the Masters direct to be served with notice shall be entitled to attend before them.

See note to Rule 39 as to giving notice of applications to next of kin.

54. Temporary Provision for Maintenance.—In any case where, pending the appointment of a person to exercise in relation to the property of a person of unsound mind not so found by inquisition any of the powers of a committee of the estate, it appears to the Masters desirable that temporary provision should be made for the expenses of the maintenance or other necessary purposes or requirements of the lunatic, or any member of his family, out of any cash or available securities belonging to him in the hands of his bankers or of any other person, the Masters shall be at liberty by certificate to authorise such banker or other person to pay to the person to be named in such certificate such sum as they certify to be proper, and may by such certificate give any directions as to the proper application thereof by that person, who shall be accountable for the same as the Masters direct.

This rule is founded on, and is almost in the same words as, sect. 130 of the Lunacy Act, 1890.

The rule extends to receivers the provisions by the statute enacted for committees.

The appointment of a receiver, and the drawing up of the necessary order to that effect, can now be carried through so expeditiously that in the larger number of cases there will be no necessity to take advantage of the provisions of this rule.

55. Provisions as to Lunatics so found by Inquisition to apply.—In all cases not otherwise herein specially provided for, the provisions of these Rules relating to lunatics so found by inquisition and the other general provisions of these Rules, shall apply to applications relating to the property of persons of unsound mind not so found by inquisition [*except that the certificate referred to in Rule 32 shall not be made, and that the Masters may make orders appointing persons to exercise, in relation to the property of persons of unsound mind not so found by inquisition, the powers of a committee of the estate*].

This rule, from “except that” to the end, is repealed by the Lunacy Rules, 1893.

“Persons of unsound mind not so found by inquisition” refers to persons with reference to whom an order has been made appointing a receiver under the 116th section of the Lunacy Act, 1890, except the persons mentioned in Rule 56.

APPLICATIONS AS TO PERSONS MENTIONED IN SECT. 116 (1) (d) OF THE LUNACY ACT, 1890, NOT BEING A LUNATIC.

56. Applications as to Persons incapable, through Disease or Age, of managing their Affairs (Forms 10, 11).—The provisions

of these Rules as to persons of unsound mind, not so found by inquisition, shall apply to applications respecting the property of any person who, though not a lunatic, is through mental infirmity arising from disease or age incapable of managing his affairs.

In applications under sub-sect. (1) (d), the title or formal heading is different from the title to applications under sub-sects. (1) (c), (1) (e), and (1) (f). But otherwise the same rules apply.

For formal headings, see page 98.

VESTING ORDERS.

57. *Application for the Appointment of new Trustees or for Vesting Orders.*—Applications under that portion of the Lunacy Act, 1890, which relates to “Vesting Orders” may be made—

- (a) Where the application is for the appointment of new trustees or relates to property subject to a trust, by any person beneficially interested in the property, whether under disability or not, or by any duly appointed trustee thereof.
- (b) Where the application relates to any property subject to a mortgage, by any person beneficially interested in the equity of redemption or in the mortgage money, whether under disability or not.

Applications for new trustees and vesting orders are by summons—

(a) “**Subject to a Trust.**”—This part of the rule will generally include appointment of new trustees and vesting orders.

Where a sole surviving trustee of a terminated trust is a lunatic, and the *cestuis que trustent* are entitled and desire the property to be vested in them, the proper course is to apply in lunacy for appointment of a new trustee and consequential vesting order. (*Re Holland*, 16 C. D. 672; *Re Currie*, 10 C. D. 93.) Where Irish land is concerned, the application should be intitled in Lunacy and in Chancery (*Re Hodgson*, 11 C. D. 888), or where a joint tenancy will be severed (*Re Pearson*, 5 C. D. 982). And the Court in Lunacy can appoint a person to convey (sect. 135, Lunacy Act, 1890).

Where a trustee is of unsound mind, but denies it and refuses to retire, the Court will not discharge him. He is entitled to an inquisition. (*Re Combes*, 51 L. T. 45).

Where the lunatic trustee is also an infant the Chancery Court will, and *semble* should, make the order. (*Re Arrowsmith*, 6 W. R. 642.)

Where the donee of a power to appoint new trustees is a lunatic, the Judge in Lunacy can authorise the committee to exercise the power of appointing persons named in the order. (*Re Shortridge*, (1895) 1 Ch. 278; *Re A.*, (1904) 2 Ch. 328.)

Where one of several trustees is a lunatic so found the Court will vest the estate in the others (*Re Leon*, (1892) 1 Ch. 348; Lunacy Act, 1890, s. 135 (1)); where shares are liable to calls (*Re Gregson*, (1893) 3 Ch. 233).

Evidence.—Where an estate is vested in trustees, the title of beneficiaries may be traced by affidavit and need not be strictly proved. (*Re Hoskins*, 4 De G. & J. 436; see also Rule 38, *supra*.)

Affidavit of fitness of a trustee must be by an independent party, not the solicitor to the applicant. (*Grundy v. Buckeridge*, 22 L. J. N. S. 1007.)

Where an appointment of trustees has been made by deed abroad and a vesting order is applied for, the deed should be strictly proved. (*Re Rice*, 32 C. D. 35. See also Lunacy Act, 1890, ss. 128, 129, 135, 136, 141.)

(b) **Mortgages**.—This part of the rule will generally only deal with vesting orders. (See Vesting Orders, pp. 108 *et seq.*)

Where committee of a lunatic mortgagee applies for an order to reconvey, the mortgagor should not be served. (*Re Rowley*, 1 De G. J. & S. 417.)

58. *Title of Application (Form 1 (f)).*—The application shall be intituled in the matter of the trust or mortgage, and of the particular lunacy, and in the matter of the Lunacy Act, 1890.

For form of heading and dissertation thereon, see page 110.

Applications under the Lands Clauses Acts for payment of the purchase-money to the credit of the lunacy should be entitled in Lunacy and in Chancery. (*Re Milnes*, 1 C. D. 28.)

See notes to Rules 20, 22, 57.

59. *Persons to be served.*—The applicant shall serve any such application upon the person or persons who, according to the practice of the Chancery Division of the High Court, would be required or entitled to be served in similar cases.

See further as to persons to be served, pages 115 and 116.

ORDERS AND CERTIFICATES.

60. *Masters to have an Official Seal.*—The Masters shall be provided with an official stamp or seal for the authentication of orders [*certificates*] and other documents and of amendments therein.

The word “certificates” in this rule is repealed by the Lunacy Rules, 1893.

61. *Orders to be entered by Masters.*—Orders made under the Lunacy Acts, 1890 and 1891, shall be drawn up by the

Masters and shall be entered [*by them*] in a proper book to be provided for that purpose.

The words "by them" are repealed by the Lunacy Rules, 1893.

As soon as the summons has been heard, the whole matter, with the Masters' notes, is referred to one of the officials to draft the order. The draft can, in the course of a week or so, be obtained from the Lunacy Stationers. An appointment is then taken before the official to settle the draft, after which the order is engrossed by the stationer, and office copies are obtainable in due course, when the original has been stamped and entered. Stamp on the original, £2.

Printed Orders.—If the order is one to be acted on by the Paymaster-General, the order will be a printed one. (Supreme Court Funds Rules, 1894, r. 23.)

62. *Certificates of Masters.*—Every certificate shall, when the nature of the case so requires, state as concisely as possible the grounds of any recommendation and the circumstances relative thereto.

63. *Certificates and Orders to be prepared without Attendances.*—The Masters shall, so far as possible, prepare their certificates and orders without attendance of solicitors or parties.

64. *Settlement of Certificates.*—Every certificate, when prepared and settled, shall be signed by the Masters at an adjournment to be made for that purpose, notice of which shall be given to the parties in cases where the certificate has been prepared without any attendance. If the parties consent to the signature of the certificate without any adjournment, the Masters may, if they think fit, sign the certificate as soon as it is prepared and settled.

65. *Certificates to be binding unless altered on Appeal.*—Every certificate shall at the expiration of eight days after signature thereof by the Master, subject in the case of an appeal to any variation directed to be made therein by the Judge upon the hearing of the appeal, be binding on all the parties to the proceedings.

These four rules are repealed by the Lunacy Rules, 1893.

66. *Numbers to be denoted by Figures.*—In Orders [*certificates*] and other documents issued from or brought into the office of the Masters numbers shall be denoted by figures and not by words.

The words "other documents" are, by Rule 7 of the Lunacy Rules, 1893, substituted for the word "certificates."

This rule applies to (*inter alia*) affidavits filed at the Lunacy Office. But affidavits are commonly accepted, even though numbers be denoted in words, in contravention of this rule.

67. *Notice of Dealings with Funds in Court.*—The Masters may, if they think fit, direct that any money, securities or effects in Court shall not be paid or transferred out without notice to such person as occasion requires and they direct.

Sometimes a summons supported by the usual evidence as to title, &c. will be necessary; at other times the point will be dealt with on some pending application. The Masters have complete discretion, and each application under the rule will be dealt with as it arises. In no case will the order operate until the termination of the Lunacy.

An order in the nature of a stop order may be made on the application of the assignee of the sole next of kin of a lunatic. (*Re Moore*, 1 M. & G. 103; and *Re Pigott*, 3 M. & G. 268.)

Charging Order.—A charging order on a fund in Court in Lunacy in respect of a judgment for debts incurred before the lunacy (judgment after lunacy) is valid and effective. The effect of the order does not depend on capacity of the debtor to give a receipt, but on the validity of the judgment. (*Re Leavesley*, (1891) 2 Ch. 1.)

On the application at Chambers by a judgment creditor of a lunatic debtor so found for a charging order on funds in the books of the Paymaster-General of C. D. to credit of debtor, the Judge ordered so much of defendant's interest in the fund should stand charged with the payment of the amount due on the judgment as the L.JJ. sitting in Lunacy should deem applicable to payment of judgment debt. *Held*, on appeal, that Judge had no power to make order providing that amount to be charged should be determined by L.JJ., and that creditor was entitled to unconditional order on specified amount of fund. (*Horne v. Pountain*, 23 Q. B. D. 264.)

68. *Clerical Mistakes and accidental Omissions.*—Clerical mistakes in Orders and [*certificates*], or errors arising therein from any accidental slip or omission, may at any time be corrected by the Judge or by a Master.

The word "certificate" in this rule is repealed by the Lunacy Rules, 1893.

Cf. Ord. XXVIII. r. 11, Annual Practice, and notes thereon.

COMMITTEES OF THE ESTATE AND PERSON.

69. *Custody of Estate or Person may be continued to surviving or continuing Committees.*—Where it appears that several persons ought to be appointed committees of the estate or person, and that it is expedient that one or more of such persons should continue to act after the death or discharge of

the others or other of them, the order appointing the committees may direct that the custody of the estate or person shall continue to the surviving or continuing committees or committee.

Committee.—No allowance to a committee for trouble can be claimed as of right, but it may be granted if reasonable, *e.g.*, in the case of a large estate, or if the committee refuses to act without it, and no other committee can be found.

If the committee carries on a business for the lunatic, he is not personally liable on the trade contracts. (*Isaacs v. Chinery*, 74 L. T. 320.)

70. *Masters to approve Security.*—The Masters shall approve the security to be given by the committee of the estate. Such security may be reduced on request to an amount corresponding, in the judgment of the Masters, with the condition of the property of the lunatic and the income thereof. The Masters may also require the security of the committee of the estate to be increased if in their judgment the circumstances of the case render it desirable.

Security usually double the value of the funds in hands of committee at any one time. Where a guarantee society acts as surety the premium (usually 10s. per cent.) is not allowed as a matter of course out of the patient's estate. To get the allowance there must be an ample margin of income after making all necessary payments for maintenance, and the application must be made to the Master on the hearing of the summons. The application may be refused in the absence of special circumstances.

For form of affidavit making out a case for payment of premium out of patient's estate, see pages 50 and 51.

71. *Money or Stock may be brought into Court as Security.*—The Masters may authorise the committee of the estate to give security in the whole or in part by bringing into Court a sufficient sum of money or stock, and they may for that purpose by order give liberty for payment or transfer into Court of any money or stock, and direct how the money is to be invested and the dividends applied, and the Paymaster-General shall give effect to every such order.

See Supreme Court Funds Rules, 1894.

This refers to money or stock belonging to the committee himself. The dividends or interest thereon will, of course, be paid to the committee for his own private use.

The object of such an arrangement is to reduce the amount of security to be given in the bond.

72. *Upon fresh Security being given previous Security discharged.*—Where a committee enters into a fresh security, upon the same being duly perfected, and upon the balance then due by the committee being paid or secured to the satisfaction of the Masters, the former security shall be discharged.

Discharge.—Where receiver has been appointed in the case of a person lawfully detained, and the reception order has expired, the Court will not discharge the receiver unless satisfied that the patient has recovered his sanity. (*Re B. A. S.*, (1898) 2 Ch. 392.)

If a surety dies or becomes bankrupt, it will be necessary for the committee [or receiver] to enter into a fresh bond. The fact that the sureties are living and solvent appears from the affidavit verifying the committee's [or receiver's] annual account (see page 97).

It is thought that if a surety desired to be relieved from his liability under the bond executed by himself he could only obtain such relief by an order, and that he himself would have to bear the whole of the expenses, including those of the new bond with new sureties.

73. *Committee of Estate to pass Accounts.*—The committee of the estate shall annually, or at such longer or shorter periods as the Masters fix, deliver his accounts or affidavit in lieu of accounts into the Master's office, and attend before the Masters at or within such time as the Masters fix, and have his accounts taken and passed, and the Masters shall make to him all just allowances, including an allowance of his reasonable and proper costs, charges, and expenses of passing the account, and those of the next-of-kin, and other persons (if any) allowed to attend on the passing of the account at the cost of the estate.

For form of account, see page 93, *ante*.

Refusal to lodge.—Procedure and penalties, see note to Rule 140.

The Lunacy Office has no machinery for vouching long or complicated accounts. In cases, therefore, where the next of kin are represented by separate solicitors the account is sometimes allowed to be vouched out of Court. In cases where the next of kin are not so represented, a chartered accountant may be instructed on behalf of the Masters to examine and check the account.

This practice might be adopted in the case of a large building estate where many rents have to be collected, and repairs and out-of-pocket payments made; or in the case of a large farm carried on for the benefit of the patient.

Generally on practice on accounts, see Wood Renton, 357.

Accounts on small estates, see Rule 35, *supra*, and note.

74. *Masters to keep a Register of Committees and Receivers.*—The Masters shall keep a book or books in which shall be

made, in respect of every Committee, Receiver, or other person liable to account, entries showing in a tabular form the following particulars, that is to say:—

- (1) The title of the matter.
- (2) The names of the Committees, Receivers, or other persons liable to account.
- (3) The date fixed for the delivery of accounts or of affidavits in lieu of accounts.
- (4) The date in each successive year when the accounts or affidavits are delivered into the Master's office.
- (5) The date in each successive year when the accounts are passed.
- (6) The balance or sum, if any, in each successive year directed to be paid into Court by the Committee, Receiver, or other person liable to account.
- (7) The date fixed for the last-mentioned payment.
- (8) The date of the actual payment into Court.
- (9) The dates of all orders made in the particular matter, and also such other particulars as the Lord Chancellor may from time to time by writing direct.

A practice rule for the internal management of the Lunacy Office.

This register forms the basis of all applications made to committees or receivers as to accounts.

75. Committee to satisfy Masters that Sureties are living and solvent.]—The Committee of the estate shall, on each occasion of passing his account, and also whenever the Masters so require, satisfy the Masters that his sureties are living, and that neither of them has been adjudicated bankrupt or compounded with his creditors, and in default thereof the Masters shall require him to enter into fresh security within such time as they fix.

This is proved on the affidavit verifying committee's annual account. (See form, p. 97.)

“*Fresh Security.*”—See form of instructions for security on p. 83.

76. Balances of Committee to be paid into Court and invested.]—The balances certified by the Masters to be due from the Committee of the estate on passing his accounts, or so much thereof respectively as the Masters certify to be proper to be paid by him, shall, unless the Masters otherwise direct, be paid by him, at or within such time as the Masters fix, into

Court to the credit of the matter, and the same when paid in, and any sum of cash in Court to which the lunatic is entitled, or so much thereof respectively as the Masters by their certificate direct, shall, unless the Masters otherwise direct, within such time (if any) as the Masters fix, be laid out in the purchase of such securities for the time being authorised for the investment of cash under the control of the High Court as the Masters direct, and the dividends on the securities so purchased and all accumulations of dividends shall, unless the Masters otherwise direct, when the same amount to a competent sum, be laid out in like manner without any request for the purpose.

The balance to be paid into Court under this rule will be ascertained on passing the receiver's account, and a certificate, stamped £1, will be drawn up. Directions for lodgment must be bespoken at the Pay Office, and these, together with an office copy of the certificate and a cheque for the amount certified, should be forwarded direct to the Bank of England, Law Courts branch.

The purchase of stock will be carried out by the Paymaster-General.

77. Mode of allowance of Account.]—The Master's allowance of the account of a committee shall be signified under the hand of a Master, and written under the account; and an order or certificate shall not be made unless it is required with a view to the payment of money into Court, or for some other purpose.

Repealed by the Lunacy Rules, 1893.

78. If Balances retained Committee to be disallowed Salary, and to be charged with Interest.]—Where the Committee of the estate makes default in bringing in his account, or in having the same passed, or in paying the balance certified to be due from him, or in causing the same or any sum of cash in Court to be laid out, paid or received pursuant to any certificate or direction in that behalf, the Masters shall, unless good cause be shown to them to the contrary, not only disallow his salary or remuneration (if any), but shall also charge him with interest at the rate of 4l. per cent. per annum upon any balance or cash for the time during which the same appears to have been improperly retained in hand or uninvested.

The effect of this rule is practically the same as Ord. L. r. 18. See Annual Practice and notes thereto.

Refusal to lodge.—Procedure and penalties. See Rule 140 and note, *infra*.

79. *Masters to inquire in certain cases whether a new Committee should be appointed.*—The Masters shall in each of the following cases inquire whether or not it is expedient that a Committee or a new Committee of the person or of the estate should be appointed, that is to say—

- (a) On default of a person approved to be Committee of the estate in duly perfecting his security, or in duly perfecting a fresh security when required by the Masters.
- (b) On the death or discharge of a Committee or one of several Committees where the custody does not survive.
- (c) If a receiving order in bankruptcy is made against a Committee or he compounds with his creditors.
- (d) If a Committee absconds or goes to reside permanently abroad.

(b) Where the procedure authorised in Rule 69, *supra*, has not been adopted.

Putting Bond in Suit.—Where default is made by a receiver or committee, and an order has been drawn up directing his bond to be put in suit, the following appears to be the practice, viz. :—

The person directed to put the bond in suit (very generally, but not at all necessarily, this is the official solicitor) memorialises the Attorney-General for leave to use the name of the Crown as plaintiff. As soon as the fiat of the Attorney-General authorising such user has been obtained, and the Lunacy Office have been informed thereof, the bond will be sent by the lunacy officials to the King's Remembrancer, and the proceedings against the defaulting receiver or committee can be commenced. See also note to Rule 140, *infra*.

Where a guarantee society have given security on behalf of a receiver or committee, who subsequently makes default in payment of the amount found due from him, such guarantee society will usually make good the deficiency without being compelled to do so by legal process.

80. *Appointment of new Committee.*—If it appears that a Committee or a new Committee ought to be appointed in any of the cases mentioned in the last preceding rule, the Master may make an order appointing a proper person to be such Committee or new Committee accordingly.

The application will be by summons, supported by affidavit of facts, and an affidavit of fitness of the proposed new committee.

The affidavit of facts should prove that one of the four events specified in Rule 79 has occurred. If the original committee has died, a certificate of death should be exhibited. A consent by the new committee to act (or an undertaking by the new receiver) will also be required.

For form of summons, see p. 103.

For form of affidavit of fitness, see pp. 37, 75, 76.

For form of consent to act, see pp. 73, 74.

For form of undertaking, see p. 36.

If a Committee wishes to retire without any adequate excuse (*e.g.*, illness, old age, &c.), he may not improbably be ordered to pay the costs occasioned by his retirement and by the appointment of a new Committee; for he should not have accepted the post unless he was prepared to fulfil the duties.

81. *Accounts to be passed on Discharge or Death of Committee or after Supersedeas.*—Upon the discharge or death of the Committee of the estate, or upon the issue of a supersedeas or the death of the lunatic, the Masters shall take and pass the account of the Committee from his appointment or from the foot of his last account. If a balance is certified to be due from the Committee or his estate, he or his legal personal representatives shall pay the same into Court, by virtue of the certificate or otherwise, within such time as the Masters direct, or in the case of a supersedeas shall pay the same to the person whose lunacy has been superseded, or in the case of the death of the lunatic shall pay the same to the legal personal representatives of the lunatic. If the Masters find a balance due to the Committee or his estate, the same shall be paid to him or his legal personal representatives by the new Committee out of the lunatic's estate, or in the case of a supersedeas by the person whose lunacy has been superseded, or in the case of the death of the lunatic by his legal personal representatives. Upon payment of the balance, if any, or if no balance is found due or the taking of the account is not required, and may in the opinion of the Masters be properly dispensed with, the security of the Committee shall be discharged.

The discharged Committee, or, if dead, his legal personal representatives, will be called on by the Masters to lodge an account, which will then be examined by the Lunacy Office, and, if necessary, the discharged Committee will be surcharged thereon. Where surcharged, and default is made, the amount found due will be recoverable from the sureties, and, if necessary, the bond will be put in suit to recover the same. For practice as to putting bond in suit, see note to Rule 79.

82. *Procedure where Security of Committee or Receiver is to be discharged.*—Where under these rules, or any special order, the security of a Committee of the estate or Receiver is to be discharged, then the Masters shall deliver up the bond to be cancelled, or, as the case may be, shall by certificate direct the clerk of the Enrolment Department of the Central Office to attend the Master of the Rolls with the enrolment of the recognisance to be vacated, and such clerk shall by virtue of such certificate attend accordingly;

and in the case of security having been given in the whole or in part by a sum of money or stock being brought into Court, the Masters may make an order for the payment or transfer in such manner as the Committee requests and as the Masters think proper of the sum of money or stock, and the dividends thereon.

Repealed by Lunacy Rules, 1893.

RECEIVERS.

83. *Appointment of Receiver.*—A Receiver may be appointed in any case, in which such appointment shall be deemed expedient. Where a Receiver is appointed, the person appointed shall, unless otherwise ordered, first give security to be allowed by the Masters duly to account for what he shall receive as such Receiver, and to pay the same as the Masters direct, and the person so appointed shall, unless otherwise ordered, be allowed by the Masters a proper salary or allowance.

For cases for appointment of a receiver, see Lunacy Act, 1890, s. 116; but "lawfully detained" (sub-sect. (1) (c)) means within the jurisdiction. (*Re Watkins*, (1896) 2 Ch. 337.)

For mode of appointment, see Chap. IV.

The receiver proposed should not be an accounting party, or the official solicitor will probably be appointed. (See Rule 2, 1893 Rules, *infra*.)

Salary or Allowance.—Remuneration is not usually allowed to a committee or receiver. Where, however, there are a large number of houses to be managed and let, and the collection of rents is troublesome, or if exceptional labour is needed, this might be good ground for a busy man to ask for such allowance.

It would seem that remuneration is never allowed in cases where the estate is not more than sufficient to provide for patient's maintenance and comfort.

"Person so appointed."—These words do not refer to a receiver appointed under s. 116, Lunacy Act, 1890, but to an agent appointed on commission to collect rents, &c. Consequently, the words in the rule are no justification for an application for remuneration for a receiver appointed under the 116th section of the Lunacy Act, 1890.

84. *Provisions as to Committees extended to Receivers.*—The provisions of these Rules respecting the Committee of the estate, his accounts, payments, allowances, and matters of the like nature, shall extend, so far as applicable with the necessary modifications, to the case of a Receiver.

The practice is very similar, but the committee's powers *quâ* com-

mittee are not necessarily vested in a receiver. The latter only has the powers vested in him by the order appointing him.

He is appointed to exercise certain powers of the committee specified in the order.

EVIDENCE.

85. *Evidence may be taken orally or by Affidavit.*—The Masters may direct the evidence in any matter or any particular proceedings to be taken orally, or partly orally and partly by affidavit.

See also Ord. LV. rr. 17, 24, Annual Practice.

By sect. 114 of the Lunacy Act, 1890, the Masters may summon any person to give evidence before them, and every person so summoned shall be bound to attend as required by the summons.

For enforcing attendances, see Rule 125, *infra*, and note, "Attachment."

Sometimes the Masters communicate by post direct with one of the witnesses, *e.g.*, with a medical witness for his opinion on some particular point.

For evidence before commissioners or visitors, see Rule 109, *infra*, and note.

86. *Masters may administer Oaths and take Recognizances.*—The Masters may administer oaths to any witness, whether his deposition or affidavit is to be used before themselves or not, and recognizances may be taken and acknowledged before them.

See Annual Practice, Ord. LXI. r. 5. See also Lunacy Act, 1890, s. 114.

Recognizances in Lunacy would now seem to be obsolete.

87. *Masters may issue Advertisements.*—The Masters may cause to be issued such advertisements as seem to them expedient with reference to any application before them.

Cf. Ord. LV. r. 16, Annual Practice, and note thereto.

The advertisements referred to will be generally for debts; less frequently they may be for next of kin. It is not often, however, that advertisements are published.

88. *Persons making Affidavits may be cross-examined.*—Every person who has made an affidavit to be used on any proceeding shall be liable to cross-examination by or before the Masters, and after cross-examination may be re-examined.

See note to Ord. XXXVIII. r. 1, Annual Practice.

This rule can hardly ever apply to medical evidence under the

116th section of the Lunacy Act, 1890, for the reason that, where there is a conflict of medical testimony in such cases, the Master will either make no order or direct a petition to be presented under the Lunacy Rules, 1893, r. 1.

More generally cross-examination will be allowed when contradictory statements and suggestions have been made as to maintenance and welfare.

“Liable to cross-examination.”—This is not a matter of right, but is in the discretion of the Masters.

Practice.—A summons should be issued, asking for leave to cross-examine. If leave is granted, the Master will endorse the summons accordingly—no order is drawn up—and a subpoena to the witness commanding him to attend on a specified date for examination before the Master will be issued from the Lunacy Office. There is no fee on the subpoena.

For enforcing subpoena, see Rule 125, note.

Counsel may be instructed to cross-examine.

89. *Form of Affidavits.*]—Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. Every affidavit shall be written or printed book-wise. No costs shall be allowed for any affidavit or part of an affidavit substantially departing from this rule.

This rule is identical with Ord. XXXVIII., r. 7. See Annual Practice and notes thereto.

Typewritten affidavits written on one side only will not be filed.

90. *Affidavits by two or more Deponents.*]—In every affidavit made by two or more deponents the names of the several persons making the affidavit shall be inserted in the jurat, except that, if the affidavit of all the deponents is taken at one time by the same officer, it shall be sufficient to state that it was sworn by both (or all) of the “above-named” deponents.

This rule is identical with Ord. XXXVIII., r. 9. See Annual Practice and note thereto.

91. *Description and Abode of Deponent to be stated.*]—Every affidavit shall state the description and true place of abode of the deponent.

This rule is identical with Ord. XXXVIII., r. 8. See Annual Practice and notes thereto.

92. *Consent of new Trustee to act (Form 12).*—The consent of a new trustee to act shall be sufficiently evidenced by a written consent signed by him and verified by a solicitor.

This rule assimilates the practice in lunacy to that provided by Ord. XXXVIII., r. 19A. See Annual Practice and note.

The form of consent (Form 12) is that prescribed by Ord. XXXVIII., r. 19A. See Annual Practice, Appendix L., R. S. C., 1883, No. 29.

“A” solicitor not necessarily the new trustees’ or applicants’ solicitor.

A new trustee may be appointed by the Chancery Division in place of a lunatic (*Re M.*, (1899) 1 Ch. 79), but in this case the C. D. cannot make a vesting order.

SUMMONSES.

93. *Summonses, how prepared and issued (Form 13).*—Summonses shall be prepared by the parties and sealed by one of the clerks in the Master’s office with the seal of the office, and a copy of the summons shall be left at the Master’s Chambers by the party obtaining the same.

Cf. Ord. LIV., r. 4B.

Summonses for the appointment of a receiver under sect. 116, Lunacy Act, 1890, will not be issued till all the evidence is completed and filed. Three copies of the summons will be needed, one for sealing, one for the file, and one for service on the patient (more as required). Office copies of the evidence will not be allowed as a matter of course on taxation (see page 58), and the completed drafts must therefore be used by the solicitor.

No fee or stamp is required on issuing any summons in lunacy.

94. *Service and return of Summons.*—Subject to the provisions of these Rules, a summons before the Masters shall be served at least two clear days before the return thereof, unless the Masters direct the summons to be returnable within a shorter time after service. The summons shall be addressed to all the persons on whom it is to be served.

This rule applies to all summonses other than those referred to in Rule 48. See note thereto.

See Ord. LIV., r. 4E, Annual Practice and notes thereto.

See also Rules 53, 95 and 99.

95. *Further Time for Service may be allowed.*—When from any cause a summons before the Masters has not been served upon any party at least two clear days before the return thereof, or within such shorter time as the Masters direct, an endorsement may be made upon the summons and upon the

copy thereof, stamped for service, appointing a new time for the parties not before served to attend, and such endorsements shall be sealed at the Master's Chambers; and the service of the copy so endorsed and sealed shall have the same effect as the service of an original summons; and when any party has been served before such endorsement, the hearing thereof may, upon the return of the summons, be adjourned to the new time so appointed.

This rule applies to summonses other than those referred to in Rule 48. See *supra*.

Where an extension of time has been made and proof of service is required, the affidavit of service must prove the endorsement appointing a new time on the copy served.

96. *Failure to attend on return of Summons.*—Where any of the parties summoned to attend the Masters in Chambers fail so to attend, whether upon the return of the summons or at any time appointed for the consideration or further consideration of the matter, the Masters may proceed *ex parte* if, considering the nature of the case, they think it expedient so to do.

Cf. Ord. LIV., r. 5, Annual Practice.

97. *Proceeding ex parte not to be re-opened except upon a special application.*—Where the Masters have proceeded *ex parte*, such proceeding shall not in any manner be re-considered in the Masters' Chambers, unless the Masters, upon a special application made to them for that purpose by a party who was absent, are satisfied that a re-consideration is necessary or expedient.

Cf. Ord. LIV., r. 6, Annual Practice.

98. *Matters may be further considered from time to time.*—Where matters in respect of which a summons has been issued are not disposed of upon the return of the summons, the parties shall attend from time to time, without further summons, at such time or times as may be appointed for the further consideration of the matter.

Cf. Ord. LIV., r. 8, Annual Practice.

99. *Masters may dispense with Summons or require Summons to be taken out.*—The Masters may, if they think fit, dispense

with any summons ordinarily taken out in the course of the proceedings before them, and require any party attending before them to take out a summons for a particular purpose or within a particular time, and fix the time at which any particular summons shall be returnable before them, or at or within which any proceeding necessary or proper to be taken before them shall be taken, and may proceed *de die in diem*, or adjourn the proceedings before them, as they think fit.

The present practice at the Lunacy Office appears to favour the issuing of a summons on most occasions on which the opinion or directions of the Master himself is required, and that such summons should be supported by affidavit evidence. The system of interviewing the Master informally and without evidence is not encouraged.

THE CHANCERY VISITORS.

100. *Masters to supply Chancery Visitors with information.*—The Masters shall furnish the Chancery Visitors with information as to the custody of the person, the property, and the scheme for the maintenance of each lunatic to be visited by the Chancery Visitors, and as to any change which has taken place in the property or in the custody of the person or the scheme for maintenance.

The information supplied to the Visitors under this rule enables them to check answers under Rule 107, *infra*.

Chancery Visitors generally, see Lunacy Act, 1890, Part. VI.

Medical Visitor must be a medical practitioner in actual practice.

Legal Visitor must be a barrister of not less than five years standing.

101. *Chancery Visitors to inquire into Maintenance of Lunatic.*—The Chancery Visitors shall, on each occasion of visiting any lunatic, inquire and examine whether he is maintained in a suitable and proper manner, having regard to the existing scheme for his maintenance, and also whether, having regard to his property, it appears expedient that any and what addition should be made to his comforts, or any and what alterations made in the scheme for or manner of his maintenance.

“**Occasion of Visiting.**”—Provision has been made by statute that every lunatic shall be personally visited and seen by one of the Chancery Visitors twice at least in every year, and so that in no case shall the interval be more than eight months.

In the case of lunatics resident in private houses, then four visits per annum shall be made for the first two years after inquisition. See Lunacy Act, 1890, s. 183 (2), (3).

Obstruction.—Any person obstructing a Chancery Visitor or Commissioner in exercising his powers under the Lunacy Act shall be liable to a penalty not exceeding £50 and be guilty of a misdemeanour. Lunacy Act, 1890, s. 321 (1).

102. *Chancery Visitors to make Special Report in certain cases.*—If the Chancery Visitors on such inquiry and examination consider that the lunatic is not maintained in a suitable manner, or that the allowance provided for his maintenance is not duly applied, or that any provision in the scheme for his maintenance, either for his personal comfort or enjoyment or otherwise, is not duly observed, or that any addition to the comforts or any alteration in the manner of the maintenance of the lunatic should be made which his property is capable of providing, they shall forthwith make a special report, stating their opinion and the grounds thereof to the Board of Visitors.

“Board of Visitors.”—By sect. 167 of the Lunacy Act, 1890, the Visitors and the Masters . . . shall from time to time form themselves into a board for their mutual guidance and direction on matters connected with the visiting of lunatics.

103. *Board to consider Report.*—The Board shall thereupon consider the report, and shall, if they think fit, refer the same to the Masters.

If the Board is dissatisfied with the treatment or arrangements for and application of maintenance they can recommend the Masters to remove the Committee, and such recommendation will have considerable weight with the Masters.

104. *Masters to investigate matters in Report.*—The Masters shall, on any such report as aforesaid being referred to them by the Board, investigate the matters thereby reported upon, and may, if they deem it expedient, summon the Committee of the person or estate to attend before them to give explanations thereon, and such orders may be made as the circumstances require, and every such order shall be communicated by memorandum to the Visitors.

It appears that the authority to enforce the Visitors' recommendation is vested in the Master.

“Summon Committee.”—See note to Rule 85, *supra*.

105. *Chancery Visitors to report once a Year to the Lord Chancellor.*—The Chancery Visitors shall, once at least in every year, report to the Lord Chancellor in the case of each lunatic, stating the result of their examination and inquiry as to the maintenance of each lunatic, and shall also in any case in which any special report to the Board has been made, state, so far as possible, what steps have been taken in consequence of such special report.

See Lunacy Act, 1890, s. 185.

These reports are confidential and cannot be inspected or put in evidence. See Lunacy Act, 1890, s. 186.

106. *Master to inform Committees of Person of Allowance for Maintenance.*—The Masters shall inform the Committees of the person, upon their appointment, of the annual amount allowed for the maintenance of the lunatic, or shall supply them with a copy of the scheme for maintenance, where a scheme has been provided.

The order appointing the Committee will state the amount allowed for the maintenance of the lunatic.

A Committee of the person may under certain circumstances be called on to account (*Strangways v. Read*, (1898), 2 Ch. 419), but not as a rule. (*Re French*, 3 Ch. App. 317.)

107. *Committee of Person to report to Visitors as to Expenditure.*—Each Committee of the person of a lunatic shall annually, or from time to time, and as often as may be required of him, render to the Board of Visitors an accurate statement in writing of the various sums expended by him, the better to enable the Visitors to ascertain and report whether the lunatic is being suitably maintained, and whether any additional comforts can be provided for him. The Visitors may dispense wholly or partially with the requirements of this Rule if in any case they think it desirable so to do.

The Committee will receive a letter in due course from the secretary to the Visitors with a printed form of statement to be filled in by himself. The receipt side will show the amount actually received for maintenance, and the debit side details of expenditure.

As a result of the operation of Rule 100 the Visitors are enabled to check this statement.

108. *Committee of Person to report to Visitors as to health of Lunatic.*—Each Committee of the person of a lunatic shall half-yearly make a report to the Board of Visitors as to the

mental and bodily health of the lunatic. If there is a medical attendant of the lunatic, such medical attendant shall either countersign the report of the Committee, or shall make a separate report, which shall accompany that of the Committee or be forwarded direct to the Board of Visitors.

The Board of Visitors send out half-yearly under this rule, addressed to the Committee, a printed form of inquiry containing six questions as to the lunatic's residence, bodily and mental health, and the nature of the treatment to which he is being subjected. These questions must be answered and the report signed by the Committee of the person and the medical attendant of the lunatic. The report is then returned to the Visitors' Office.

109. Power to Visitors to summon Committee of Person.]—The Board may summon the Committee of the person of the lunatic to attend before them and to give such information in his possession relating to the lunatic as they may require.

The Commissioners and Visitors have also power to summon any person to appear before them to give evidence with reference to matters under their jurisdiction, and to administer an oath to such witness. Lunacy Act, 1890, s. 332.

For form of summons, see Form 22 of Schedule II. to Lunacy Act, 1890.

Allowances to witnesses so summoned are in the discretion of the Visitors or Commissioners, and any sums allowed will be payable by them. *Ibid.* s. 332 (4).

COSTS AND TAXATION OF COSTS.

110. Rules of Supreme Court as to Costs to apply.]—The Rules of the Supreme Court as to costs for the time being in force shall, subject to these Rules, apply to the costs of proceedings under the Lunacy Acts, 1890 & 1891, taken after the commencement of these Rules in any matter.

These rules will be found under Order LXV., Annual Practice. For precedent Bills of Costs, see Appendix B., p. 221.

Reconveyance by Mortgagees.—The usual rule is that costs of reconveyance are borne by the mortgagor, but the costs of a vesting order may be ordered to be paid out of the lunatic mortgagee's estate.

Where beneficially entitled (*Re Wheeler*, 1 De G. M. & G. 434).

Where entitled as trustee (*Re Townsend*, 1 M. & G. 686; *Re Lewis*, 1 M. & G. 23), but not if the mortgagor takes out the summons unless the Committee refuses. (*Re Wheeler*, *supra*.)

Mortgagor will not get his costs of appearing out of the lunatic's estate. (*Re Phillips*, 4 Ch. App. 629.) See also *Re Sparks*, 6 C. D. 361.

On application for power to reconvey by Committee the mortgagor should not be served. (*Re Rowley*, 1 De G. J. & S. 417; *Re Phillips*, *ubi supra*.)

If lunatic mortgagee appears to be trustee on the face of the deed, then mortgagee will pay costs. (*Re Lewis*, 1 M. & G. 23.)

Where he does not so appear, see *Re Townsend*, 1 M. & G. 686.

Where the legal estate is in lunatic mortgagee's heir, see *Re Jones*, 2 De G. F. & J. 554.

Costs of Petition.—See *Re Cathcart*, (1892) 1 Ch. 549; on appeal, *ibid.*, (1893) 1 Ch. 466; out of separate estate of married woman, see same case.

Where a lunatic dies before Committee is appointed, costs come out of the estate (*Re Meares*, 10 C. D. 552) in due administration.

Costs of defence to an inquiry will be allowed in a proper case where conducted in the interest of the lunatic. (*Re Jones*, 34 Sol. J. 661.)

Necessary expenditure for the protection of a lunatic's estate is recoverable. (*Williams v. Wentworth*, 5 Beav. 325.)

Guardian ad litem.—Where a guardian *ad litem* has been appointed and the lunatic recovers *pendente lite*, the lunatic must pay the costs of such guardian before appearing by his own solicitor, and may add them to his own costs in the action. (*Frampton v. Webb*, 11 W. R. 1018.)

Specific Performance.—Where vendor becomes a lunatic before completion, see *Cresswell v. Haines*, 8 Jur. N. S. 208.

Opposing Bill in Parliament.—*Re Blake*, 72 L. T. 280.

Purchase by Railway Co. (Lands Clauses Act).—Costs will be borne by the company. (*Re Taylor*, 1 M. & G. 210; *Re Briscoe*, 2 De G. J. & S. 249.)

Taxation.—An order to tax should not be applied for against a client when a petition in lunacy has been presented against him. (*Re Armstrong*, (1896) 1 Ch. 536.)

Appeals on matters of costs lie to Court of Appeal. See *Re Cathcart*, (1893) 1 Ch. 466.

See also, generally, Rule 114, *infra*, notes.

111. *Pending Proceedings.*—In proceedings pending at the commencement of these Rules, the Rules as to costs in Lunacy applicable before the commencement of these Rules shall continue to apply.

Pending.—See Rule 3, note, *supra*.

112. *Solicitors to be allowed same Costs as in Chancery Division.*—In all cases not otherwise herein specially provided for, solicitors shall be entitled to charge and be allowed the fees they would be entitled to charge and be allowed for

work and labour of a similar character transacted in the Chancery Division of the High Court.

In practice, this rule is not strictly observed.

The costs allowed on taxation in lunacy matters are rather more than those allowed in Chancery party and party costs, and rather less than Chancery solicitor and client costs.

113. *Refreshments not allowed.*—No allowance shall be made for refreshments upon inquisitions.

114. *Costs to be taxed by Masters.*—Costs of proceedings under the Lunacy Acts, 1890 and 1891, shall be taxed by and under the direction of the Masters. Charges and expenses shall not be allowed, except to Committees of the estate or person, unless under special circumstances the Judge or Masters in any case direct them to be allowed.

Order to be lodged.—A copy of the order directing taxation, with a statement of names, &c. of parties, must be lodged at the Taxing Office (Room 155) within seven days from the entry of the order. Cf. Ord. LXV. r. 19c, Annual Practice.

Only the affidavits and other evidence read in the order will be allowed on taxation.

Only the particular costs clearly referred to in the order directing taxation will be taxed; and each separate transaction, in respect of which a taxation is desired, should therefore be specified in the order.

Costs of accounts are assessed by the officials vouching such accounts, not by the Lunacy Taxing Master.

A surety is liable under his bond for costs directed to be paid by his committee or receiver and which remain unsatisfied.

It does not appear that there is any particular form of notice to change solicitors specially applicable to proceedings in lunacy. But notice must be given at the office of the Masters in Lunacy.

See also notes to Rule 110.

115. *Procedure on Taxation.*—Where it is ordered that any costs, or costs, charges and expenses, be taxed, the Masters shall tax and certify such costs, or costs, charges and expenses, and shall certify the names of the respective solicitors to whom the same should be paid, and due notice of attending the Masters on the taxation shall be given to such parties as have liberty to attend on the proceedings in the matter; and where it is ordered that the costs, charges and expenses of any Committee or party in the matter of any application under the Lunacy Acts, 1890 and 1891, be taxed, the Masters, in taxing such costs, charges and expenses, shall not allow the costs, charges, or expenses of any application

upon which no order has been drawn up, or of any evidence in relation thereto, unless they direct the same to be allowed as costs in the matter, and shall not allow the costs, charges, or expenses of or incidental to any application before the Masters which they have refused, unless the Masters are of opinion that such application was proper.

See S. C. F. Rules, 1894, r. 12.

An order to tax should not be applied for against a client when a petition in lunacy has already been presented against such client. (*Re Armstrong*, (1896) 1 Ch. 536.)

In all cases (including agency) the taxed costs will be certified as payable to the solicitors on the record.

CONSTRUCTION OF AND PROCEEDINGS UNDER ORDERS.

116. *Certain Orders to take effect till further order.*—All orders for the appointment of Committees and for the allowance of maintenance shall be deemed to take effect only until further order.

Orders for the custody of persons so found will expire automatically at the end of stated periods unless continued. See Lunacy Act, 1890, s. 115.

See *Re B. A. S.*, (1898) 2 Ch. 392, and note to Rule 72, *supra*.

117. *Order appointing Committee to take effect on Security being given.*—Where it is ordered that a person named be appointed Committee of the estate, the order shall be deemed to take effect only on the Masters certifying that he has given such security as they have approved for answering the estate and accounting for the rents, profits and produce thereof once in every year, or oftener, if required, before the Masters; and such security shall be perfected at or within such time as the Masters appoint, and until such security has been perfected, the approved Committee shall not, unless otherwise ordered, interfere in any manner in the affairs of the lunatic as the Committee of his estate or otherwise. The Masters shall inform the Paymaster-General when such security has been perfected.

See Chapter VI., p. 78, *ante*, as to method of completing security.

In practice, occasionally, receivers have been appointed without security being required. This practice would, however, seem to be *ultra vires*. See Lunacy Act, 1890, s. 108 (2), which provides for an order being made as to custody of estate on the Master's certificate of completion of security.

118. *Committee to account for Money received.*—Where it is ordered that the Committee of the estate do receive, or be at liberty to receive, any money on account of the lunatic or his estate, he shall give credit for the same on passing his accounts before the Masters, and where any sum is ordered to be allowed for the maintenance of the lunatic, or to be expended for any other purpose out of his estate, the Committee of the estate shall be allowed the amount of the allowance for maintenance or the amount to be expended (as the case may be) on passing his accounts before the Masters.

On vouching his accounts the Committee will deal with the payments made by him as follows:—

- (a.) The production of the office-copy order directing such payments will show his authority for making the same.
- (b.) The production of vouchers will prove that such payments have, as a matter of fact, been made.

As to practice on vouching accounts, see page 96.

For form of account or of affidavit in lieu of account, see pages 87 to 96.

119. *Payments by Committee.*—Where it is ordered that the Committee of the estate do pay any sums of money for maintenance, he shall pay the same out of income, and where it is ordered that he do pay any costs, he shall, unless otherwise ordered, pay the same, when taxed, out of any moneys coming to his hands, after providing for the maintenance.

All payments by a Committee or Receiver should be made out of income unless directions are given to the contrary by the Masters, and maintenance is a first charge on such income.

Where the annual income of the estate is insufficient to provide for the patient's maintenance, the Masters will sanction a resort to capital from time to time as occasion may require, and the order appointing the receiver or Committee will be drawn on this basis. Or directions may possibly be given for the purchase of an annuity on the lunatic's life.

120. *Inventory to be signed.*—Where it is ordered that any person be at liberty to retain any furniture or effects of the lunatic, he is to sign an inventory thereof, and an undertaking to deliver up the same when required so to do, and such inventory and undertaking shall be deposited in the office of the Masters.

Where the Receiver or Committee is authorised to retain furniture under this rule, his security cannot be completed until the inventory has been signed and lodged with the undertaking.

No complicated inventory made by a valuer is necessary, all that is required being a detailed list of the goods retained.

Undertaking, Form of—

"The above is a true and correct inventory of the furniture and
 "effects to be retained by me pursuant to order dated
 "and I undertake to deliver up the same when required so to do.
 "Dated

" (Signed) ."

Witness

The Masters are not very willing to sanction the sale of a patient's furniture if there is a reasonable probability that he may recover his sanity and desire to return to his home.

121. *Proper Officers to transfer Stock.*—Where it is ordered that a sum of stock standing in the books of the bank or other public company be transferred into Court, either generally or on a particular account, and no person is named in the order for making the transfer, the Secretary or Deputy Secretary, Accountant-General or Deputy Accountant-General for the time being of the bank, or other proper officer of such other company, shall make the transfer, and he, or one of the cashiers for the time being of the bank, or other such proper officer as aforesaid, shall, if so directed, receive any sum of money standing in the books of the bank or such other company as aforesaid accrued due at the date of the order by way of dividend, bonus, or periodical payment in respect of the stock to be transferred, and also any future sum so to accrue due previously to the transfer, and shall pay the same into Court either generally or on such particular account as aforesaid as the case may require.

On drawing up the order it is usual to require production of the stock or share certificates, bank book, or post office savings bank book, as the case may be, so as to ensure the correct designation and description of the transferor.

Any person ordered to transfer stock or pay funds into Court must be served with an office copy of the order, and with directions for lodgment to be obtained from the Pay Office.

All transfers and payments made in pursuance of the Lunacy Act under an order or a Master's certificate are valid and binding on all persons. (Lunacy Act, 1890, s. 146.)

Paymaster-General.—For rules relating to preparation of orders in lunacy to be acted on by Paymaster-General and particulars relating thereto, see S. C. F. Rules, 1894, rr. 5 to 27, *Annual Practice*, Part III.

The Bank of England has recently raised the point that orders in lunacy (other than those under sub-sect. 1(d) of the 116th section of

Lunacy Act, 1890) do not show on the face of them under what statutory authority such orders are made.

To meet this objection, orders (other than those under sub-sect. 1 (d)) dealing with cash or funds at or through the Bank of England have the words "and in the matter of the Lunacy Acts, 1890 and 1891," added under the appropriate and ordinary title.

122. *How Lease to be settled.*—Where an order is made authorising a lease of a lunatic's property, the Masters shall settle a proper lease in pursuance of the order and shall sign their allowance of the lease when settled, and the Committee of the estate shall, in the name and on behalf of the lunatic, execute the lease when allowed, upon the intending lessee executing a counterpart thereof.

This rule is repealed by the Lunacy Rules, 1893.

123. *Order to raise Money by Mortgage.*—Where it is ordered that the Committee be at liberty to raise by mortgage of any part of the lunatic's estate a sum of money for any purpose, the Masters shall settle and approve a proper mortgage, and the Committee upon payment to him, or as may be directed, of the amount to be raised shall, in the name and on the behalf of the lunatic, execute the mortgage when so settled and approved, and do all such other acts as are necessary to effectuate the same, and the Committee shall, out of the income of the lunatic's estate, pay and keep down the interest on the mortgage.

For form of mortgage, see page 126.

Where money is raised for the first time on lunatic's behalf an order is necessary.

A transfer of an existing mortgage can sometimes be carried through on directions only from the Master without the expense of an order. In such case no execution on lunatic's behalf is necessary.

Generally, in every case where execution on the lunatic's behalf is necessary an order must be first obtained, and the deed must be settled by the Masters.

For the exercise of the jurisdiction to charge for permanent improvements under Lunacy Act, 1890, s. 118, see *Re Gist*, (1904) 1 Ch. 399.

124. *Orders for Sale.*—Where an order for the sale of a lunatic's real or leasehold estate is made, the purchaser shall, within such time as the Masters appoint, pay his purchase-money into Court, or otherwise, as the Masters direct, and in case of payment into Court to such account as the Masters appoint, and upon such payment the purchaser shall be let

into possession, or receipt of the rents and profits as from such day as the Masters appoint, and the Committee of the estate shall forthwith in the name and on behalf of the lunatic execute all proper assurances of the property sold to the purchaser or as he directs, to be settled by the Masters, and due notice of attending the Masters shall be given to all parties interested.

For special clauses in conditions of sale, see pages 123 to 125.

For form of conveyance and practice as to obtaining Master's approval, engrossing, examining and executing conveyance, see pages 131, 132.

The Masters will only authorise a sale of real estate on good and sufficient reasons being shown. There is considerable reluctance to alter the nature and character of a lunatic's property involving possible changes in succession on his death, unless such a course be necessary or clearly desirable.

WRITS OF EXECUTION, &c.

125. *Writ of Execution to issue out of Central Office.*—All process or writs of execution, attachment, or otherwise, requisite for the enforcement of any order made under the Lunacy Acts, 1890 and 1891, may be issued out of the Central Office of the Supreme Court.

"Enforcement of any Order."—See Ord. XLIII. rr. 7 and 8, Annual Practice and notes thereto.

This applies to non-compliance with any order of Master other than an order for the payment of money.

"Attachment."—A Master holding an inquisition has power to order a writ of attachment against an alleged lunatic to enforce attendance, but in ordinary cases he will refer the matter to the Judge who has power to commit. (*Re B.*, (1892) 1 Ch. 459.)

See also Lunacy Act, 1891, s. 26 (2).

PERCENTAGE AND FEES.

126. *Percentage in case of Lunatics so found by Inquisition.*—There shall be paid a percentage at the rate of 4 per cent. per annum on the clear annual income, amounting to 100% and upwards, of every lunatic so found by Inquisition, but so that no larger sum shall be payable in any case in any one year than 400%.

The percentage or a proportionate part thereof (as the case may require) shall be charged upon the estate of a lunatic and be payable thereout, although before payment thereof he die, or the inquisition

be superseded, or be vacated and discharged on a traverse; but in either of the two last-mentioned cases the Judge in Lunacy may, if he thinks fit, remit or reduce the amount of the sum to be paid. (Lunacy Act, 1890, s. 148 (3).)

The official who draws up the order appointing the Committee ascertains at the time the annual income arising from the patient's estate, and the amount of percentage payable thereon.

In due course application is made with a printed form to the Committee for the amount (specified on the form) payable for percentage. Such amount is payable by impressed stamps on the said enclosed printed form, which should then be returned to the Lunacy Office. See Rule 138, *infra*.

Percentage on estates of persons resident and declared lunatic abroad, see Rule 133, *infra*.

See also note to Rule 127.

127. *Percentage in other cases.*—In the case of lunatics not so found by Inquisition and of persons mentioned in section 116 (1) (d) of the Lunacy Act, 1890, with respect to whose property orders have been made under which income is from time to time dealt with or made available, there shall be paid a percentage at the rate of 2 per cent. per annum on the clear annual income amounting to 100*l.* and upwards so dealt with or made available, but so that no larger sum shall be payable in any case, in any one year, than 200*l.* This Rule shall apply to all orders made after the commencement of these Rules.

Rates of Percentage, Fees, Authority.—These rules themselves are the authority for the rates of percentage and the fees chargeable in lunacy. By sect. 148 of the Lunacy Act, 1890, the Lord Chancellor, with the concurrence of the Treasury, is empowered to make rules fixing the percentage and fees payable. The concurrence of the Treasury in these rules was duly obtained, and is expressed and evidenced by a letter addressed to the Chancellor from the Treasury, which is filed in the Chancellor's office.

See also Lunacy Act, 1891, s. 27 (3).

The method of paying percentage is the same as that set out in the preceding rule.

The attention of the lunacy officials should be at once called to any material alteration in the patient's income, so that where necessary the amount payable for percentage may be adjusted.

On incomes under 100*l.* per annum no percentage is payable.

128. *Sums under 10*s.* to be disregarded.*—In calculating percentage payable under these Rules, sums less than 10*s.* shall be disregarded and shall not be levied.

129. *Fees.*—The following fees shall be payable in respect of proceedings under the Lunacy Acts, 1890 and 1891 :—

CERTIFICATES.

	£	s.	d.
On every certificate of a Master other than a certificate of a Master respecting percentage	1	0	0

ATTENDANCES.

On an application, with or without subpoena, for any officer to attend as a witness or to produce documents (in addition to the reasonable expenses of the officer), for each day or part of a day he shall necessarily be absent from his office	1	0	0
---	---	---	---

The office may require a deposit of stamps on account of any further fees, and a deposit of money on account of any further expenses which may probably become payable beyond the amount paid for fees and expenses on the application, and the officer or his clerk taking such deposit shall thereupon make a memorandum thereof on the application. The officer may also require an undertaking in writing to pay any further fees and expenses which may become payable beyond the amounts so paid and deposited.

ORDERS.

On every order	2	0	0
----------------------	---	---	---

And in addition thereto the following fees, where the clear annual income of the person to whose property the order relates amounts to 100*l.* and upwards :—

- | | | | |
|--|---|---|---|
| (a) On an order authorising a particular lease, an amount equal to one-fourth the stamp duty payable on the lease ; | | | |
| (b) On an order authorising a sum of money to be raised by mortgage or charge, for every 100 <i>l.</i> or fraction of 100 <i>l.</i> of the amount to be raised | 0 | 2 | 0 |
| (c) On an order approving or authorising a contract for sale of any property, for every 100 <i>l.</i> or fraction of 100 <i>l.</i> of the amount of the purchase-money | 0 | 2 | 0 |

- | | |
|---|--------------------------|
| (d) On an order authorising a sale by auction where the reserve price is fixed or approved by the Masters, for every 100 <i>l.</i> or fraction of 100 <i>l.</i> of the amount of the reserve price..... | £ s. d.
0 2 0 |
| (e) On an order conferring a general authority to sell or grant leases | 10 0 0 |

Provided that the fees payable under the heads a, b, c, and d shall not exceed 10*l.*

Provided also that the fees payable under the heads a, b, c, d, and e shall not be payable upon any order made while percentage is payable upon the income of the person to whose property the order relates.

COPIES.

On all copies of documents, the actual cost.

See note to Rule 127, *supra*.

130. *Impressed Stamps to be used.*—The fees payable under these Rules shall be paid by means of stamps. Impressed stamps shall be used, unless for some sufficient reason to be approved by the Masters their use be inconvenient. The stamps shall be impressed or affixed on the vellum, parchment, or paper on which the proceeding in respect whereof such stamps are required is written or engrossed, or which may otherwise be used in reference to such proceeding.

These stamps can be obtained either at Somerset House (Room 28) or at the Law Courts (Room 5).

131. *Stamp to be Cancelled.*—Every officer who receives any document to which a stamp is affixed shall, immediately upon the receipt of such document, cancel or deface the stamp thereon, by writing upon such stamp his name, or the initial letters of his name, in such a manner as to show clearly and distinctly that such stamp has been made use of, and so that the same may not be again used, and no document bearing an adhesive stamp shall be filed or delivered out until the stamp thereon has been cancelled or defaced in manner aforesaid.

132. *Limited number of adhesive Stamps to be used.*—In all cases where adhesive stamps are used, the stamps affixed to the document shall be of an amount corresponding as

nearly as practicable with the amount of the stamp which such document requires, in order that no greater number of adhesive stamps may be affixed to any document than is actually necessary.

133. *Masters to certify amount of Percentage.*]—The Masters shall certify the amount of percentage payable in each case, and the person who is to pay the same, and the time within which the same is to be paid, and such person shall pay the same out of the first money coming to his hands on account of income.

"Time within which."—Usually one month.

"Such person shall pay."—See Rule 126, note, *supra*.

In the case of persons resident and declared lunatic abroad percentage is only payable in respect of property within the jurisdiction of the Judge in Lunacy and administered under his direction. (Lunacy Act, 1891, s. 27 (3).)

134. *Masters may certify Percentage to be paid out of Dividends.*]—The Masters may, in such cases as they think fit, certify that the whole or any part of the percentage payable on the incomes of lunatics shall be paid out of cash arising from dividends of the lunatic standing to the credit of the matter of any lunacy, either generally or to any particular account, and when any such certificate is made, the amount certified thereby shall not be paid by means of stamps, but shall be carried over and transferred in manner hereinafter directed.

"In such cases as they think fit."—The Masters exercise their discretion without communicating with the solicitors.

"Certify."—This is done by a document directed to the Paymaster-General, with which the solicitor has nothing to do, and which requires no stamp. It contains full particulars as to the lunacy, amount of percentage, &c., for the guidance of the Paymaster-General.

If the Committee or Receiver is not applied to by the Masters for the amount of the percentage, he will see on the transcript of the Paymaster's account that the amount has been debited to him and carried over to the percentage account. Beyond this he will receive no intimation of the transaction.

135. *Lunacy Percentage Account.*]—There shall be kept in the Paymaster-General's office an account intituled "The Paymaster-General's Lunacy Percentage Account."

This refers to the percentage account carried over from the dividends standing to the credit of the lunacy as mentioned in the note to the last rule.

136. *Upon Certificate of Masters, Dividends to be carried to Percentage Account.*—When any such certificate as last hereinbefore mentioned is made, an office copy of such certificate shall be left at the office of the Paymaster-General, who shall, by virtue of such certificate, out of any cash arising from dividends or interest on money on deposit belonging to the lunatic standing to the credit of the matter of any lunacy, carry over the amount mentioned in such certificate, from the credit of the account in such certificate mentioned, to the credit of the Lunacy Percentage Account, and any orders made and to be made in any such matters respectively are to be subject to this Rule, and to be acted upon accordingly.

137. *Transfer from Percentage Account to Cash Account.*—As soon as conveniently may be after the 31st of January in each year, the Paymaster-General shall, by certificate under his hand, direct the bank to transfer to his "Cash Account" at the bank the amount of cash standing on that day to the credit of the Lunacy Percentage Account, and such certificate shall be a good and sufficient authority to the bank to write off the amount therein mentioned from the Lunacy Percentage Account and to carry it to the "Cash Account" without any further order of the Court, and upon receiving from the bank a certificate that such transfer has been effected, the amount so transferred shall be placed to the debit of the proper accounts in the books of the Paymaster-General.

138. *Percentage to be paid by Stamps.*—Subject to the provisions hereinbefore contained, the percentage shall be paid by means of stamps, and the Masters shall give notice in writing to the Committee of the estate or other proper person of the amount of percentage to be paid by him according to the certificate of the Masters, and of the time within which such amount is to be paid, and the Committee or other person shall, within such time, pay the amount stated in the notice out of income by purchasing stamps to such amount, and shall file such notice, duly stamped, at the office of the Masters.

See note, Rule 126, *supra*.

For authority, see order as to fees under Lunacy Act, 1890, dated 11th August, 1892, p. 212.

139. *Percentage may be paid for less than a year.*—Where it appears to the Masters, with a view to the establishment of a uniform period for the payment of percentage or for other purposes, to be expedient, they may make in any case a certificate comprising the income of a period greater or less than one year, and stating the amount of percentage payable for such period.

140. *Masters to certify Persons in default in paying Percentage.*—The Masters shall, once at least in every six months, and oftener if they think fit, certify to the Treasury the names of all persons, if any, who are then in default in paying the amount certified to be payable by them in respect of the said percentage, and filing the notices duly stamped, as hereinbefore provided, with the amounts payable by such parties respectively.

“**To the Treasury.**”—*Refusal to pay percentage, or to lodge account or affidavit in lieu of account.* The Treasury on being thus certified take action on the bond by the official solicitor (for procedure on putting bond in suit, see Rule 79, *supra*, and note), and a writ of *ca. sa.* will issue from the K. B. D. against the Receiver or Committee as a Crown debtor. Should there be no goods on which seizure can be made, the debtor can be committed to prison, the Debtors Act, 1869, not applying in the case of Crown debtors. This committal order will be made against the debtor as being a Crown debtor, and not as being in contempt, and on payment his release will be directed on a note from the Inland Revenue.

COPIES OF DOCUMENTS.

141. *Copies to be made in the Masters' Office.*—The following copies of proceedings and documents shall be made in the Masters' office (that is to say): office copies of affidavits to be made for and taken by the party filing the same; copies of documents prepared in the Masters' office to be made for and taken by the party having the conduct of the proceedings; office copies of all orders, certificates, and other documents, and of all proceedings filed in the Masters' office; and copies of all documents filed in the Masters' office. Copies of all proceedings and documents, except those above mentioned, shall be made, delivered, charged, and paid for according to these Rules.

“**In the Masters' Office.**”—*I.e.*, by the stationer employed at the Lunacy Office.

All documents referred to in this rule are made by the stationer at the expense of the applicant. The stationer's charges are 1½*d.* per folio

for copying and 2d. per folio for engrossing, together with 1d. per sheet in each case for paper.

Office copies of affidavits will not be allowed on taxation as a matter of course (see page 58), and care should therefore be taken to see that all drafts are completed before the originals are filed.

In cases where office copies are allowed the same will be made by the lunacy stationers.

142. *Request for Copies.*—The party, or his solicitor, requiring any copy, save as hereinbefore excepted, shall make a written request, to be delivered to the party by whom the copy is to be furnished, or his solicitor, with an undertaking to pay the proper charges. Upon the request being made, with such undertaking as aforesaid, copies of such proceedings or documents shall be made by the party, or his solicitor, filing or leaving the same, or who, under the last preceding Rule, may have taken office copies thereof.

Cf. Ord. LXVI. r. 7 (i), Annual Practice.

“**As hereinbefore excepted.**”—The exception here alluded to is to those documents which are made by the stationer in the Masters’ office. See preceding rule.

Discovery.—By Ord. XXXI. r. 29, discovery can now be had against guardians *ad litem* and next friends. This includes committees and receivers.

For general practice concerning inspection of documents as regards a lunatic, see *Re Strachan*, (1895) 1 Ch. 439.

A medical practitioner’s report, under Lunacy Act, 1891, s. 26 (2), cannot be inspected (*Re Bathe*, (1892) 3 Ch. 194). An order may be made directing a lunacy official to produce at the trial documents kept at the Lunacy Office, and the applicant’s solicitor may be granted inspection at the Lunacy Office. (*Re Shearwood*, 82 L. T. Jo. 137.) For inspection by an alleged lunatic on inquisition of documents in the hands of the official solicitor, see *Re Cathcart* (1902), W. N. 80. Documents in the custody of the Court in Lunacy are not in the possession or control of the lunatic’s Committee (*Vivian v. Little*, 11 Q. B. D. 370). In an action for improper treatment by a patient against the keeper of a licensed asylum inspection of the books of admission, entries of removal and discharge, visitation books, case books, patient’s book, licences, orders, medical certificates, letters of the patient’s wife, and of the Commissioners was granted. (*Hill v. Philp*, 7 Exch. 232.)

Generally, see Bray on Discovery, and also Lunacy Act, 1890, s. 6 (5).

143. *Time for delivery of Copies.*—The copies shall be ready to be delivered at the expiration of forty-eight hours after the delivery of such request and undertaking, or within such other time as the Judge in any case directs, and shall be

delivered accordingly upon demand and payment of the proper charges.

Cf. Ord. LXVI. Annual Practice.

Here the time for delivery is extended by twenty-four hours.

144. *Charge for Copies.*—The charges for all such copies shall be at the rate of fourpence per folio of 72 words, every figure comprised in a column being counted as one word.

Cf. Ord. LXV. rr. 14, 18, Annual Practice.

This does not apply to copies made by the lunacy stationers in the Masters' office, as to which see Rule 141, *supra*.

145. *Folios to be numbered.*—The folios of all copies shall be numbered consecutively in the margin thereof, and the name and address of the party or solicitor by whom the same are made shall be endorsed thereon, and such party or solicitor shall be answerable for the same being true copies of the originals or of the office copies of the originals of which they respectively purport to be copies, as the case may be.

Cf. Ord. LXVI. r. 7 (l), (m), Annual Practice.

146. *Solicitor taking Office Copy to produce it.*—Any party or solicitor who has taken any office copy under these Rules shall produce the same in Court, or at the office of the Masters, when required for the purpose of the proceedings to which the same relates.

Cf. Ord. LXVI. r. 7 (g), Annual Practice.

The office copy of the order, affidavit, &c., should be lodged with the summons or other papers on any subsequent application in the same matter.

147. *Copies to be on convenient Paper and legible.*—All office copies and copies to be furnished by parties or their solicitors shall be written on paper of a convenient size with a sufficient margin, and in a neat and legible manner, similar to that which is usually adopted by law stationers, and in the case of copies to be furnished by parties or their solicitors, unless so written, the parties or solicitors furnishing them shall not be entitled to be paid for the same.

Office copies are furnished by the lunacy stationers and not by the parties or their solicitors. See page 58.

148. *Default of Solicitor to furnish Copy.*]—In case any solicitor who is required to furnish any such copy as aforesaid either refuses, or for two clear days from the time when the application for such copy has been made neglects to furnish the same, the person by whom such application has been made shall be at liberty to procure a copy from the office in which the original document is or has been filed or left in the same way as if no such application had been made to the solicitor, and in such case no costs shall be due or payable to the solicitor so making default in respect of the copy or copies so applied for.

Cf. Ord. LXVI. r. 7 (n), Annual Practice.

149. *Costs of unnecessary Copies to be disallowed.*] — The Masters shall not allow any costs in respect of any copy, unless the same appears to them to have been required and to have been made with due care.

The sixth day of February, 1892.

(Signed) HALSBURY, C.

THE SCHEDULE REFERRED TO IN THE FOREGOING RULES.

Form 1.

TITLE OF PROCEEDINGS.

(a) *Application as to alleged Lunatic.*

In Lunacy.

In the matter of A. B., a person alleged to be of unsound mind.

(b) *Application as to Lunatic so found by Inquisition.*

In Lunacy.

In the matter of A. B., a person of unsound mind.

(c) *Application as to Lunatic not so found by Inquisition.*

In Lunacy.

In the matter of A. B., a person of unsound mind not so found by Inquisition.

(d) *Application in Lunacy and in Chancery Division.*In Lunacy,
andIn the High Court of Justice,
Chancery Division.In the matter of A. B., a person of unsound mind
[or as the case may be].(e) *Application as to Person, through mental Infirmary arising through Disease or Age, incapable of managing his Affairs.*In the matter of A. B.,
andIn the matter of the Acts 53 Vict. c. 5, and
54 & 55 Vict. c. 65.(f) *Application for Vesting Order.*

In Lunacy.

In the matter of the trusts of an Indenture dated
the , and made between
and .In the matter of A. B., a person of unsound mind
[or as the case may be],
and

In the matter of the Lunacy Acts, 1890 and 1891.

Form 2.**NOTICE OF APPEAL FROM AN ORDER OF A MASTER.**

[Insert the Title of the Proceedings.]

TAKE NOTICE that , of , desires to appeal to the Judge from the Order of the Master made in this matter, dated the [if part only is appealed from, add: "so far as it directs that "]. And that he intends to ask that the said order may be discharged [or varied], and that it may be ordered that .

Dated the day of

(Signed)

Solicitors for

To

and to Messrs. ,
his solicitors.

Form 3.**NOTICE OF APPEAL FROM A CERTIFICATE OF A MASTER.**

[Insert the Title of the Proceedings.]

TAKE NOTICE that , of , intends to appeal from the certificate of the Master made in this matter, dated the . And that he intends to ask that the said certificate may be varied as follows: [state the variation]. And that such consequential directions may be given or corrections and alterations made in the said certificate as may be necessary.

Dated the day of

(Signed)

Solicitors for

To

and to Messrs. ,
his solicitors.

Form 4.**PETITION FOR AN ORDER FOR INQUISITION.***(For Title see Form 1a.)*

To the Right Honourable the Lord High Chancellor
of Great Britain.

The humble petition of C. D., of , in the
county of , sheweth as follows:—

1. A. B., now residing at , is now and for
years last past has been of unsound mind, and incapable of
managing himself and his affairs.

2. Your petitioner is the father of the said A. B.

Your petitioner therefore humbly prays that the Masters
in Lunacy, or one of them, may be directed to inquire con-
cerning the alleged lunacy of the said A. B.

And your petitioner will ever pray, &c.

(Signed) C. D.

Witness to the signature of the said C. D.

E. F.,
Solicitor.

Form 5.**NOTICE TO ALLEGED LUNATIC OF PETITION FOR INQUISITION.**

Mr. A. B.,

TAKE NOTICE that a petition, of which a copy is within written,
has been presented to the Lord Chancellor by me [or by C. D.,
of],* and that by virtue of and under the same an inquiry
may be ordered to take place before one of the Masters in Lunacy
as to whether you are or are not of unsound mind and incapable of
managing yourself and your affairs; but that you may, in case
you think fit, demand that such inquiry may, if ordered, be had
before a jury, in which case a notice of such your desire must be
signed by you and attested by a solicitor, and filed at the office
of the Masters in Lunacy, the Royal Courts of Justice, London,
within seven clear days after your receipt of this notice.

Dated the day of .

(Signed) C. D.

(or X. Y., of , solicitor).

* When a demand for a jury has already been filed, from this to the end
is to be omitted.

Form 6.**NOTICE TO ALLEGED LUNATIC OF REPORT OF COMMISSIONERS
UNDER THE LUNACY ACT, 1890.****Mr. A. B.,**

TAKE NOTICE that the Commissioners in Lunacy, on the day of _____, made a report to the Lord Chancellor stating that you are detained or taken charge of as a lunatic, and that they are of opinion that your property is not duly protected [or that the income of your property is not duly applied for your benefit, or to that effect]. And take notice that, such report having been duly filed, an inquiry may thereon be ordered by the Judge in Lunacy to take place before one of the Masters in Lunacy as to whether or not you are of unsound mind and incapable of managing yourself and your affairs; but that in case you think fit to demand that such inquiry, if ordered to be held, may take place before a jury, a notice thereof must be signed by you and attested by a solicitor, and filed at the office of the Masters in Lunacy, the Royal Courts of Justice, London, within seven days after your receipt of this notice.

Dated the _____ day of _____ . (Signed) X. Y.

Form 7.**NOTICE BY ALLEGED LUNATIC DEMANDING A JURY.***In the matter of A. B., an alleged Lunatic.*

I, the above-named A. B., having been on the _____ day of _____ served with a notice of a petition for an order for an inquiry (or of the filing of a report whereon an inquiry may be ordered) whether or not I am of unsound mind, and incapable of managing myself and my affairs, do hereby demand that, in the event of such an inquiry as aforesaid being ordered, the same be had before a jury.

Dated the _____ day of _____ . (Signed) A. B.

Witness,
M. N., of _____,
Solicitor.

Form 8.**NOTICE TO PERSON OF UNSOUND MIND, NOT SO FOUND BY
INQUISITION, OF APPLICATION UNDER THE LUNACY ACTS,
1890 AND 1891.**

Mr. A. B.,

TAKE NOTICE that a summons, of which a copy is within written, was on the day of issued by me (or by C. D., of), and that in pursuance thereof orders may be made on the ground [*state the ground on which the case is brought within section 116 of the Lunacy Act, 1890, e.g., that you are lawfully detained as a lunatic*] for the purpose [*state the purpose, e.g., of rendering your property, or the income thereof, available for the maintenance or benefit of yourself, or of yourself and your family, or for carrying on your trade or business*], and that if you intend to object to such orders being made, notice of such objection must be signed by you and attested by a solicitor, and filed at the office of the Masters in Lunacy, the Royal Courts of Justice, London, within seven clear days after your receipt of this notice.

Dated the day of .

(Signed) C. D.,
(or) X. Y.,
Solicitor.

Form 9.**NOTICE OF OBJECTION BY PERSON OF UNSOUND MIND, NOT
SO FOUND BY INQUISITION, TO ORDER UNDER LUNACY
ACTS, 1890 AND 1891.**

I, A. B., of , having been served with a notice of a summons for an order respecting my property, under the Lunacy Act, 1890, hereby give notice of my intention to object to such order being made.

Dated the day of .

A. B.

Witness,
E. F.,
Solicitor.

Form 10.**NOTICE OF PERSON THROUGH MENTAL INFIRMITY ARISING
FROM DISEASE OR AGE INCAPABLE OF MANAGING HIS
AFFAIRS.****Mr. A. B.,**

TAKE NOTICE that a summons, of which a copy is within written, was on the day of issued by me (or by C. D., of), and that in pursuance thereof orders may be made on the ground that you are, through mental infirmity arising from disease (*or age*), incapable of managing your affairs, for the purpose [*state the purpose, e.g., of rendering your property or the income thereof available for the maintenance or benefit of yourself, or of yourself and your family, or for carrying on your trade or business*], and that if you intend to object to such orders being made, notice of such objection must be signed by you and attested by a solicitor, and filed at Room No. , at the Royal Courts of Justice, London, within seven clear days after your receipt of this notice.

Dated the day of .

(Signed) C. D.,
(or) X. Y.,
Solicitor.

Form 11.**NOTICE OF OBJECTION BY PERSON, THROUGH MENTAL INFIR-
MITY ARISING FROM DISEASE OR AGE, INCAPABLE OF
MANAGING HIS AFFAIRS.**

I, A. B., of , having been served with a notice of a summons for an order respecting my property, under the Acts 53 Vict. c. 5, and 54 & 55 Vict. c. 65, hereby give notice of my intention to object to such order being made.

Dated the day of .

A. B.

Witness,
M. N.,
Solicitor.

Form 12.**CONSENT TO ACT.**

I, A. B., of , hereby consent to act as a trustee of the
[describe the instrument].

Dated the day of .
(Signed) A. B.

I, C. D., of , solicitor, hereby certify that the above-
written signature is the signature of A. B., the person mentioned
in the above-written consent.

Dated the day of .
(Signed) C. D.

Form 13.**SUMMONS BEFORE THE MASTERS.**

(For title, see Form 1.)

Let all parties concerned attend the Master in Lunacy in
Chambers (or in the case of a person through mental infirmity
arising from disease or age incapable of managing his affairs,
the Master in Chambers, at Room No.), at the Royal
Courts of Justice, London, on day the day of ,
at o'clock in the noon, on the hearing of an applica-
tion on the part of [here state on whose behalf the application is
made and its object].

Dated the day of , 19 .

This summons was taken out by , of , solicitor
for .

To .

ORDER AS TO FEES UNDER THE LUNACY ACT, 1890.

ORDER AS TO THE FEES AND PERCENTAGES *under section 148 of the Lunacy Act, 1890, which are required to be taken for Lunacy Proceedings in the High Court of Justice and Court of Appeal by means of Stamps.*

Whereas by section 3 of the Public Offices Fees Act, 1879, it is provided that the Treasury may from time to time make, and when made, revoke, alter, and add to regulations for all or any of the following purposes respecting fees in any public office; that is to say:—

- (1) Regulating the manner in which the fees taken in money are to be taken, accounted for, and paid over.
- (2) Determining the use of impressed or adhesive stamps, and the mode of cancellation of adhesive stamps.
- (3) Regulating the use of stamps and prescribing the application thereof to documents from time to time in use, and requiring documents to be used for the purpose of such stamps.

Provided that any such regulations which may relate to the office of any Court of Law shall be made with the consent of the Lord Chancellor.

Now we, the undersigned, being two of the Lords of Her Majesty's Treasury do, with the concurrence of the Lord Chancellor, hereby give notice, and order, and direct—

That from and after the date of this order, in lieu of any regulations on the subject heretofore in force, the whole of the fees and percentages imposed by the Rules made under section 148 of the Lunacy Act, 1890, shall be taken in stamps, and that the stamps employed for the purpose shall in all cases, except for the fees payable for copies of documents, be impressed.

The stamps for denoting the fees payable for copies of documents shall be either impressed or adhesive.

The impressed stamps herein referred to shall be of such a character as the Commissioners of Inland Revenue may from time to time adopt for the purpose, whilst the adhesive stamps shall be of the description used for Judicature fees generally, such adhesive stamps to be cancelled by the various Court or other officers, either by perforation or in such manner as the said Commissioners may from time to time direct.

The official forms with impressed or adhesive stamps (as the case may be) required in any proceedings under the said Act shall be sold at the Inland Revenue Office, Royal Courts of Justice.

And we do further direct that this Order shall be binding on all Courts, officers, and persons, whom it may in any way affect.

(Signed) SIDNEY HERBERT,
HERBERT EUSTACE MAXWELL,
Two of the Lords of
Her Majesty's Treasury.

Dated the 11th day of August, 1892.

I concur in this order.

(Signed) HALSBURY, C.

RULES IN LUNACY, 1893.

1. *Masters may direct a Petition for Inquisition to be presented.*]

—Upon any application under section 116 of the Lunacy Act, 1890, the Masters may, if they consider it desirable for the care of the person, or for the management of the estate or otherwise in the interest of any lunatic or alleged lunatic, direct such person as they think fit to present a petition for an order for inquisition as to the lunatic or alleged lunatic, and if such direction is not complied with within ten days, or such further time as the Masters allow, the Masters may direct such petition to be presented by the official solicitor, and the official solicitor shall present the same accordingly.

Petition to be presented.—As to practice adopted on opposed summonses, see pages 57 and 58.

2. *Powers of Masters in case of undue Delay.*—(1) If it appears to the Masters that there is undue delay in any matter before them, or if the Masters are otherwise dissatisfied with the conduct of any proceedings, or with the mode in which any order made or direction given by the Masters is being carried out, they may summon before them the party having the conduct of the proceedings, or any other person appearing to be answerable, to explain the delay or other conduct with which they are dissatisfied, and may make such order as the circumstances require; and for the purposes aforesaid the Masters may direct the official solicitor to summon the persons whose attendance is required, and to conduct any proceedings and carry out any directions; and the Masters may, if they think fit, appoint the official solicitor to act as solicitor in such matter in the place of any solicitors previously acting.

(2) An order of the Masters under this Rule shall be subject to appeal to the Judge in accordance with the provisions of Rule 11 of the Rules in Lunacy, 1892.

“Otherwise dissatisfied with the conduct of any proceedings.”—It is the view of the Masters in Lunacy that the Committee or Receiver

should be an independent person. Where the applicant is already in a fiduciary position to the patient it might be useless to appoint him to check his own accounts or transactions. Similarly criticism can be made of the appointment of a clerk to the guardians. In such cases the Masters may suggest the appointment of the official solicitor as Committee or Receiver. On such a suggestion the solicitor should ask for an adjournment to consider the matter, and must obtain some more independent and desirable person to put forward as Committee or Receiver on restoring his summons, and must be careful to see that his new evidence of fitness is of a satisfactory nature.

3. *Costs of Official Solicitor.*—Any costs incurred by the official solicitor in relation to any proceedings taken by him pursuant to the directions of the Masters, shall be paid by such parties or out of such funds as the Masters direct.

In cases indicated in the note to the last rule, where the official solicitor is appointed, the applicant's solicitor would get his costs up to the date of such appointment, but no further costs would be allowed him, and he will thenceforth cease to be interested in any way in the lunacy.

4. *Undertaking to be given by Person appointed to do any Act or exercise any Power.*—Where an order is made by the Masters under that portion of the Lunacy Act, 1890, which relates to management and administration, the Masters shall, unless for special reasons they think fit to dispense therewith, require the person appointed by the order to do any act or exercise any power to give an undertaking to the following effect with such modifications as the circumstances of the case shall require.

UNDERTAKING.

I, A. B., of [insert address and description], undertake to apply all such moneys as I may receive belonging to the said or his (or her) estate, and all moneys which I may receive on his (or her) account, in such manner as the Masters in Lunacy shall direct, and to account for such moneys when required; and, further, to give such security for the due application of and accounting for such moneys as may be required by any order of the Masters, and to obtain and send every six months to the Masters a report from a duly qualified medical man as to the mental and bodily condition of the said ; and, further, every six months to give notice in writing to the Masters of the then place of abode of the said ; and, further, to use my

best endeavours to produce the said _____, and to allow him (or her) to be visited by any Chancery Visitor or other person authorised by the Masters to visit him (or her), and to give such directions as the Masters may require to facilitate such visits.

This undertaking must be lodged with the evidence at the Lunacy Office at the same time that the summons for the appointment of the person giving the undertaking as Receiver, under the 116th section of the Lunacy Act, 1890, is issued.

It must be witnessed by a solicitor.

5. *Chancery Visitors to visit and report upon request of Masters.*—The Chancery Visitors shall, upon the request of the Masters, visit and report as to any persons with reference to whom or to whose estate an application is pending before or an order has been made by the Masters.

This rule enables a Master to obtain independent expert information as to the condition of a patient when there is any doubt in the matter.

Cf. Lunacy Act, 1890, s. 184.

6. *Orders and Documents to be authenticated by seal.*—Orders and other documents issued from the Masters' office shall be sufficiently authenticated by the seal of the Masters' office, and it shall not be necessary to sign the same.

The lunacy seal is impressed in Room 213.

7. *Amendment of Rule 68 of Rules in Lunacy, 1892.*—The words "other documents" are hereby substituted in Rule 68 of the Rules in Lunacy, 1892, for the word "certificates."

See page 76, *supra*.

8. *Allowance of Account to be authenticated by seal.*—The Masters' allowance of the account of a Committee shall be sufficiently authenticated by the seal of the Masters' office.

An office copy of the account with the lunacy seal impressed thereon can be obtained from the lunacy stationers about one month after the fair copy account has been sworn and lodged, as explained on page 97.

9. *Discharge of security.*—When the security of a Committee of the estate, Receiver or other person is to be discharged, the bond shall be delivered up to be cancelled, or in

the case of a recognizance the proper officer shall, upon a direction from the Masters, attend the Masters, who shall thereupon vacate such recognizance in the usual manner; and in the case of security having been given in the whole or in part by a sum of money or stock being brought into Court, the Masters may make an order for the payment or transfer, in such manner as the Masters think proper, of the sum of money or stock and the dividends thereon.

Recognizances would now seem to be obsolete.

If a sum of money or stock has been brought into Court as security, an order (obtainable on summons) will be necessary before such money or stock can be paid or transferred out of Court.

10. *Allowance of lease to be authenticated by seal.*—Where an order is made authorising a lease of a lunatic's property, the Masters shall settle a proper lease in pursuance of the order, and their allowance of the lease when settled shall be sufficiently authenticated by the seal of the Masters' office; and the Committee of the estate shall in the name and on behalf of the lunatic execute the lease when allowed, upon the intending lessee executing a counterpart thereof.

The Committee has power, on his own authority, to let the lunatic's property for any period not exceeding three years. The same power is usually conferred on Receivers by the orders appointing them.

If a lease is required an order must be obtained under sect. 120 of the Lunacy Act, 1890; a reduction of rent should only be made under the authority and with the approval of the Masters.

For extent of leasing power, see Lunacy Act, 1890, s. 122.

For form of lease, see page 128.

As to execution by the Committee or Receiver, see page 128.

11. *Change of residence.*—Every Committee of the person of a lunatic so found by Inquisition shall, within three days after any change shall have taken place in the residence of the lunatic, send by post to the office of the Visitors of Lunatics, Royal Courts of Justice, London, notice thereof, with the address of the place to which the lunatic has been removed.

By sect. 185 (2) of the Lunacy Act, 1890, it is provided that the Visitors shall, without delay, report to the Lord Chancellor any instance in which, on proceeding to visit, they have been unable to discover the residence of, or have been by any other circumstance prevented from actually seeing on that occasion the lunatic whom they intended to visit.

Any person having charge of a single patient—usually a doctor—must give seven days' prior notice to the Commissioners, and to the person on whose petition reception order was made before change of residence. Lunacy Act, 1890, s. 56.

12. *Repeal of Rules in Lunacy, 1892, in part.*]—The Rules in Lunacy, 1892, referred to in the schedule hereto, are hereby annulled to the extent mentioned in the second column thereof.

13. *Short Title.*]—These Rules may be cited as the Rules in Lunacy, 1893, and shall be read as one with the Rules in Lunacy, 1892, and shall come into operation on the first day of July, 1893.

(Signed) HERSCHELL, C.

The 15th day of June, 1893.

THE SCHEDULE.

RULES AND PORTIONS OF THE RULES IN LUNACY, 1892, ANNULLED.

Number of Rule.	Extent of Repeal.
Rule 14	The whole rule.
Rule 55	From "Except that" to the end of the rule.
Rule 60	The word "certificates."
Rule 61	The words "by them."
Rule 62	The whole rule.
Rule 63	The whole rule.
Rule 64	The whole rule.
Rule 65	The whole rule.
Rule 66	The word "certificates."
Rule 77	The whole rule.
Rule 82	The whole rule.
Rule 122	The whole rule.

RULE IN LUNACY, 1900.

Dated 29th October, 1900.

Rule 17 of the Rules in Lunacy, 1892, is hereby annulled, and the following Rule is substituted therefor:—

- (a) Applications for a traverse and for a supersedeas shall be made by petition.
- (b) Applications under that portion of the Lunacy Act, 1890, which relates to “Vesting Orders” shall be made by summons, unless the Judge in Lunacy or a Master directs a petition to be presented.

This Rule shall be read with the Rules in Lunacy, 1892, and shall come into force on the first of November, 1900.

(Signed) HALSBURY, C.

The 29th October, 1900.

- (a) For form of petition for supersedeas, see page 140.
- (b) **Who can make a Vesting Order.**—Summonses for vesting orders are generally dealt with by the Judge.
A Master can make a vesting order if it comes within administration and management. (*Re Browne*, (1894) 3 Ch. 417.)
A County Court Judge has no jurisdiction under the Lunacy Act to make a vesting order. (*Re Noyce*, (1892) 1 Q. B. D. 642.)
Chancery Division, when appointing a new trustee in place of a lunatic, cannot make a vesting order (*Re M.*, (1899) 1 Ch. 79), except where the lunatic trustee is out of the jurisdiction, when, *semble*, the Chancery Division would still make the vesting order. (*Re Gardner*, 10 C. D. 29.)

Generally, as to vesting orders, see page 108 *et seq.*, *supra*. See also Rules 57 and 58 and notes thereto, *supra*; also Annual Practice,

Part IV., "Lunatic"; Daniell's C. P., 7th edit., p. 1791; Seton, 6th edit., p. 1247 *et seq.*

For form of summons for a vesting order, see page 111, *supra*; and for form of order, see *Re C. M. G.*, (1898) 2 Ch. 324.

Not obtainable.—The jurisdiction of the Judge in Lunacy to make a vesting order only extends to cases in which lunacy has been proved. Where, therefore, an order has been made under the Lunacy Act, 1890, s. 116 (1) (d), with reference to a trustee, there is no jurisdiction to make a vesting order in favour of a proposed new trustee unless fresh medical evidence is filed, proving insanity. If this is not forthcoming, the vesting order must be applied for in the C. D.

Heading.—The rule is that applications relating to Vesting Orders shall be made in Lunacy.

When, however, the application is founded on, or assisted by, some Act (other than the Lunacy Acts) which is administered in the Chancery Division, the application should be made in Lunacy and in Chancery. For heading in such case, see p. 205.

See *Re Hodgson*, 11 C. D. 838; *Re Pearson*, 5 C. D. 982; *Re Buckingham*, 2 C. D. 690; *Re Milnes*, 1 C. D. 28.

APPENDIX B.

FORMS OF BILLS OF COSTS.*

I.—Costs of an Application under the 116th Section of the Lunacy Act, 1890.

In Lunacy.

In the matter of John Smith, a person
of unsound mind not so found by
Inquisition.

APPLICANT'S COSTS.

Hilary Sittings, 1905.

	<i>£ s. d.</i>
† Instructions for application under the 116th section of the Lunacy Act, 1890	0 13 4
(NOTE.—The Master has discretion to increase the allowance for in- structions up to 1 <i>l.</i> 1 <i>s.</i>)	
Instructions for affidavit of first medical man	0 6 8
Drawing and engrossing same, folios (1 <i>s.</i> 4 <i>d.</i> per folio)	
Attending to be sworn	0 6 8
<i>Paid oath</i>	0 1 6
Instructions for affidavit of second medical man	0 6 8
Drawing and engrossing same, folios (1 <i>s.</i> 4 <i>d.</i> per folio)	
Attending to be sworn	0 6 8
<i>Paid oath</i>	0 1 6

* As to costs and taxation of costs, see Rules 21 and 110 to 115 of the Lunacy Rules, 1892, in Appendix A.

† The date when each matter was done should be inserted in the left-hand margin.

	£	s.	d.
Instructions for Affidavit of Kindred and Fortune ..	0	6	8
Drawing and engrossing same, folios (1s. 4d. per folio)			
Attending to be sworn	0	6	8
<i>Paid oath</i>	0	1	6
Instructions for affidavit of fitness	0	6	8
Drawing and engrossing same, folios (1s. 4d. per folio)			
Attending to be sworn	0	6	8
<i>Paid oath</i>	0	1	6
Drawing and fair copy undertaking	0	5	0
Attending attesting Committee's signature	0	6	8
(NOTE.—Insert all proper attendances and correspondence which may have taken place to enable the Solicitor to obtain this evidence.)			
Preparing special summons for appointment of Receiver, &c., and attending issuing	0	13	4
Copy for Lunacy Office, folios			
[Copy for service			
Attending Respondent's Solicitors, serving them with copy summons when they gave undertaking to appear.....	0	6	8]
Copy Summons for service on Lunatic, folios			
Endorsing notice thereon	0	5	0
Attending serving same (according to distance and time engaged, mileage 1s.)			
Drawing and engrossing affidavit of service (1s. per folio)			
<i>Paid oath</i>	0	1	6
(Any charge for affidavits in answer will be as follows :—)			
Perusing affidavit, folios			
<i>Paid for same</i>			
Copy for country (if agency)			
Attending summons before Master, order made (or as the case may be)			
(The allowance will be in the Taxing Master's discretion.)			
<i>Paid for draft order</i>			
Close copy (4d. per folio)			
Notice of appointment to settle	0	4	0

	£	s.	d.
Attending settling order			
(The fee for this depends on circumstances.)			
Attending settling blue print order	0	6	8
(This is only allowed when there is a fund in Court.)			
Attending passing order	0	6	8
<i>Paid stamp</i>	2	0	0
<i>Paid for office copy</i>			
Instructions, drawing and engrossing bond	1	11	8
<i>Paid stamp</i>			
Attendances on Committee and Sureties on their executing bond and attesting(6s. 8d. each)			
Instructions for affidavit of sufficiency	0	6	8
Drawing and engrossing same	0	6	8
Attending to be sworn two deponents	0	13	4
<i>Paid oath</i>	0	3	0
Instructions for affidavit of execution of bond	0	6	8
(When it is not made by a Solicitor or his Clerk.)			
Drawing and engrossing same(1s. 4d. per folio)			
Marking exhibit	0	1	0
Attending to be sworn	0	6	8
<i>Paid oath and exhibit</i>	0	2	6
(NOTE.—If stocks are to be lodged in Court, see items in "Petitioner's Costs.")			
<i>Paid stamp on certificate of security</i>	1	0	0
Attending, bespeaking, and for office copy	0	6	8
<i>Paid for office copy</i>			
Copy order for Taxing Master, folios (4d. per folio)			
Drawing bill of costs and copy, folios (8d. per folio)			
Attending taxing (6s. 8d. every 25 folios)			
<i>Paid for certificate and engrossment</i>	1	1	6
Attending, filing, and bespeaking office copy	0	6	8
<i>Paid</i>	0	1	6
Sittings fee (1l. 1s. agency, 15s. proper)			
Numerous letters, postages, &c.			
(A higher fee for letters is allowed in agency than in proper matters.)			

II.—Costs of an Application by Petition.

In Lunacy.

In the matter of John Smith, a person
of unsound mind.

PETITIONER'S COSTS OF INQUIRY.

Michaelmas Sittings, 1905.

	£	s.	d.
Instructions for petition	0	6	8
Drawing and engrossing same	0	10	0
(Or per folio, 1s. 4d.)			
Writing Petitioner arranging to sign petition	0	3	6
Attending Petitioner, reading over, and attesting signature.....	0	6	8
Instructions for affidavit in support	0	6	8
Drawing and engrossing same(1s. 4d. per folio)			
Attending Deponent to be sworn	0	6	8
(If more than one Deponent and separate attendances, each 6s. 8d.)			
* <i>Paid oath, each</i>	0	1	6
Attending presenting petition	0	6	8
<i>Paid for office copy affidavits</i>			
(These office copies are made by the Lunacy Office Stationer, who charges 2d. per folio and paper for them.)			
Fair copy petition for filing			
Copy petition for service			
Indorsing notice thereon	0	5	0
Attending serving same (according to distance and time engaged, mileage 1s.)			
<i>If served by an Agent, Writing Agent therewith and with full instructions for service</i>	0	5	0
<i>Paid his charges</i>			
Writing him therewith	0	3	6

* For charges relating to the two medical affidavits, see page 221.

	£	s.	d.
Drawing and engrossing affidavit of service (1s. per folio)			
<i>Paid oath</i>	0	1	6
(No attendance to be sworn allowed on an affidavit of service.)			
<i>Paid for office copy</i>			
Attending searching if Jury requested and found not	0	6	8
Drawing and fair copy precept for inquiry	0	6	8
<i>Paid for parchment</i>	0	2	0
Attending obtaining fiat for inquiry	0	6	8
<i>Paid for fiat</i>			
Fair copy to keep			(4d. per folio)
Attending at Masters' office therewith and arranging time and place of inquiry	0	6	8
Writing Petitioner apprising him of appointment ..	0	3	6
Attendances, arranging for the attendances of witnesses and taking notes of their evidence (according to time engaged)			
Preparing subpoena and attending getting same signed and sealed	0	6	8
Copy for service, each witness	0	1	0
Service thereof, each witness	0	5	0
Mileage			
<i>Paid conduct money, each witness</i>			
*Drawing and fair copy brief of evidence			
*Briefing affidavits and necessary documents			
Attending inquiry when lunatic found of unsound mind			(3l. 3s. per day)
<i>Paid travelling expenses</i>			
<i>Paid use of room</i>			
Drawing inquisition	1	0	0
Engrossing same for signature			(8d. per folio)
<i>Paid for parchment</i>	0	5	0
Attending Master therewith for signature	0	6	8
Attending filing inquisition	0	6	8
Filling up Form for Visitors of Lunatics	0	3	6
Writing them therewith	0	3	6
Preparing special summons for appointment of Committee and maintenance and attending issuing	0	13	4

* These are not allowed except when Counsel is instructed.

	£	s.	d.
Copy for chambers	0	2	0
Copy and service	0	4	6
Instructions for affidavit in support	0	6	8
Drawing and engrossing same(1s. 4d. per folio)			
Attending to be sworn	0	6	8
<i>Paid oath</i>	0	1	6
Drawing and fair copy, consent to act as Committee..	0	5	0
Attending Committee on his signing same	0	6	8
Instructions for affidavit of fitness(6s. 8d. each)			
Drawing and engrossing same (1s. 4d. per folio, each)			
Attendances to be sworn			
<i>Paid oaths</i>			
Attending summons, proposal approved	1	1	0
(This may be increased at the Taxing Master's discretion, if there are any adjournments.)			
<i>Paid for copy draft certificate</i>			
Close copy			
Notice to settle ..(2s. 6d. for each additional notice)	0	4	0
Attending settling certificate	0	13	4
(This may be increased at the dis- cretion of the Taxing Master.)			
Engrossing certificate			
<i>Paid stamp on transcribing certificate</i>			
Attending signing certificate	0	6	8
<i>Paid duty on grant</i>			
<i>Paid fee on fiat</i>			
Attending bespeaking and for office copy certificate..	0	6	8
<i>Paid for same</i>			
(NOTE.—These are proper charges where a certificate is necessary.)			
* Instructions, drawing and engrossing bond	1	11	8
<i>Paid stamping bond</i>			
Attendances on Committee and Sureties on their exe- cuting bond and attesting			
Instructions for affidavit of sufficiency	0	6	8
Drawing and engrossing same	0	6	8
Attending to be sworn (two deponents)	0	13	4
<i>Paid oath</i>	0	3	0

* For costs of drawing up order, see pp. 222, 223.

	£	s.	d.
Instructions for affidavit of execution of bond	0	6	8
(When it is not made by a Solicitor or his Clerk.)			
Drawing and engrossing same(1s. 4d per folio)			
Marking exhibit	0	1	0
Attending to be sworn	0	6	8
<i>Paid oath and exhibit</i>	0	2	6
When Stocks are to be lodged in Court, the following items will have to be added :			
Attending bespeaking directions for lodgment of Stocks and for same	0	6	8
Instructions for deed of transfer of Midland Railway Stock	0	6	8
Drawing and engrossing same	0	3	4
<i>Paid stamping transfer</i>	0	10	0
Writing Secretary for execution.....	0	5	0
(If there are other Stocks to be trans- ferred into Court repeat the above five items.)			
Attending Assistant Paymaster-General lodging transfer of above Stock for his execution	0	6	8
(Similar items for any other Stocks.)			
<i>Paid stamp on certificate of security</i>	1	0	0
Attending bespeaking and for office copy	0	6	8
<i>Paid for office copy</i>			
Copy order for Taxing Master, folios (4d. per folio)			
Drawing bill of costs and copy, folios (8d. per folio)			
Attending taxing (6s. 8d. every 25 folios).....			
<i>Paid for certificate and engrossment</i>	1	1	6
Attending filing and bespeaking office copy	0	6	8
<i>Paid</i>	0	1	6
Sittings fee (£1 1s. agency, 15s. proper)			
Numerous letters, postages, &c.			
(A higher fee is allowed in agency than in proper matters.)			

III.—Costs of Next-of-Kin of an Application by Petition.

In Lunacy.

In the matter of John Smith, a person of
unsound mind.

COSTS OF NEXT-OF-KIN OF INQUIRY.

	£	s.	d.
Instructions to appear on summons to proceed on order for inquiry	0	6	8
<i>Paid for copy affidavits in support of summons</i> (4d. per folio)			
Perusing			(4d. per folio)
Copy for country			(4d. per folio)
			(In agency cases)
(NOTE.—If affidavits in answer are necessary the charges for same can be taken from the Petitioner's costs.)			
Attending summons order made (according to circumstances, from 6s. 8d.)			
<i>Paid for copy certificate</i>			(4d. per folio)
Close copy			
Attending settling same			
Attending signing			
<i>Paid for copy minutes of order</i> (4d. per folio)			
Close copy			(4d. per folio)
Attending settling	0	13	4
Attending passing (see "Petitioner's Costs")	0	6	8
Drawing bill of costs and copy			(8d. per folio)
Attending taxing			
Sittings fees			
Extra letters, postages, &c. (see "Petitioner's Costs")			

IV.—Form of Costs of Committee [or Receiver] of passing his Accounts.

In Lunacy.

In the matter of John Smith, a person of unsound mind [not so found by Inquisition*].

THE BILL OF COSTS OF THOMAS SMITH ON PASSING HIS FIRST ACCOUNT AS COMMITTEE [OR AS RECEIVER*].

1905.	£	s.	d.
Instructions for Account†.....			
Drawing account‡ and fair copy, folios.....			
Attending bespeaking transcript (if there is any fund in Court).....	0	6	8
<i>Paid for book</i>	0	0	6
Attending bespeaking certificate of fund	0	6	8
Attending vouching account			
(This fee depends upon the length, &c.)			
Writing Committee with particulars of queries and for instructions	0	3	6
Attending disposing of queries and completing account	0	6	8
(If the matter is troublesome more may be allowed.)			
Instructions for affidavit verifying account	0	6	8
Drawing same, folios 4.....	0	4	0
Engrossing account and affidavit, folios			
Attending Committee to be sworn	0	6	8
<i>Paid oath</i>	0	1	6
Attending filing account and affidavit and bespeaking office copy	0	6	8
<i>Paid Stationer for office copy.</i>			
Drawing bill of costs and copy, folios (8d. per folio)			
Attending taxing			
Sittings fee.....			

* As the case may be.

† Only allowed on the first account.

‡ The account is counted at the Lunacy Office, and the costs put in by the officials.

V.—Form of Costs of Next-of-Kin on passing Account.

In Lunacy.

In the matter of John Smith, a person
of unsound mind [not so found by
Inquisition*].

THE BILL OF COSTS OF NEXT-OF-KIN ON PASSING COMMITTEE'S [OR RECEIVER'S] FIRST ACCOUNT.

1905.

	£	s.	d.
Attending passing account and disposing of queries and settling balance	1	1	0
Drawing and fair copy costs	0	2	0
Attending taxing	0	6	8
Letters, &c.	0	5	0

VI.—Form of Costs of an Application for a Supersedeas.

In Lunacy.

In the matter of John Smith, late a
person of unsound mind.

COSTS OF APPLICATION FOR SUPERSEDEAS.

Trinity Sittings, 1905.

1905.

	£	s.	d.
Instructions to apply for a Supersedeas	0	6	8
(NOTE.—Insert all attendances and correspondence on parties, in- cluding the payments for documents, and the perusals, &c. of the documents used in the Lunacy.)			
Drawing petition, folios(at 1s. per folio)			
Instructions for affidavit of Doctor	0	6	8

* As the case may be.

£ s. d.

Drawing and engrossing same, folios			
(at 1s. 4d. per folio)			
(NOTE.—This affidavit will have to be made by the Doctor of the Asylum, or the Doctor in whose care the Lunatic is, and it must be corroborated by the affidavit of a second Medical Man. Charge all proper correspondence and attendances on the Doctors.)			
Attending first Medical Man to be sworn	0	6	8
<i>Paid oath</i>	0	1	6
Instructions for affidavit of second Medical Man....	0	6	8
Drawing and engrossing same, folios			
(at 1s. 4d. per folio)			
Attending to be sworn	0	6	8
<i>Paid oath</i>	0	1	6
Attending Client attesting his signature to petition..	0	13	4
Engrossing petition, folios			
Attending presenting same	0	6	8
(NOTE.—Insert proper fees for Doctors making affidavits, &c.)			
Attending Lunatic and Doctor, and with them to Law Courts; attending with them before Lord Justice explaining facts to him, and he afterwards saw Lunatic and made order for an unconditional Supersedeas	1	1	0
<i>Paid for draft order</i> (amount actually paid)			
Close copy			
(at 4d. per folio)			
Attending settling same	0	13	4
Attending producing writ of Supersedeas and vacating bond	0	13	4
Attending paying percentage	0	6	8
<i>Paid percentage</i>			
<i>Paid Stationer's attendance to stamp and file receipt</i>	0	2	0
Attending passing order	0	6	8
<i>Paid stamp on order</i>	2	0	0
<i>Paid for office copy</i>			
Attending bespeaking writ of Supersedeas	0	6	8
<i>Paid</i>	0	11	0

	£	s.	d.
Drawing bill of costs and copy(at 8d. per folio)			
Attending taxing(6s. 8d. every 25 folios)			
<i>Paid for certificate and engrossment.....</i>	1	1	6
Attending filing and bespeaking office copy	0	6	8
<i>Paid.....</i>	0	1	6
Sittings fee			
(Sittings fees are charged as follows:—1 <i>l.</i> 1 <i>s.</i> agency, 15 <i>s.</i> proper.)			
Extra letters, postages, &c.			
(A higher fee is allowed in agency matters than in proper.)			

VII.—Form of Costs of an Application for Payment out of Court and to vacate Security on the Death of a Lunatic.

In Lunacy.

In the matter of John Smith, a person of unsound mind [not so found by Inquisition*].

APPLICANT'S COSTS.

<i>Easter Sittings, 1905.</i>	£	s.	d.
Instructions to apply for payment out of Court and to vacate security	0	6	8
Attending bespeaking transcript of account	0	6	8
<i>Paid for book</i>	0	0	6
Attending bespeaking certificate of fund and for same	0	6	8

* As the case may be.

	£	s.	d.
Attending at Somerset House searching for and bespeaking certificate of death of Lunatic.....	0	6	8
<i>Paid search and certificate</i>	0	3	7
Instructions for affidavit in support of summons	0	6	8
Drawing and engrossing same, folios (1s. 4d. per folio)			
Marking certificate as exhibit	0	1	0
Attending to be sworn	0	6	8
<i>Paid oath and exhibit</i>	0	2	6
(NOTE.—If there are any Respondents and they are separately represented, charges will have to be made for copy and service of summons on them as well as notices of all appointments before the Master.)			
Preparing special summons for payment out and to vacate security and attending issuing.....	0	13	4
Copy for Lunacy Office, folios.....			
Attending summons order for payment out and to vacate security made.....	0	13	4
(Or according to circumstances.)			
Attending getting certificate of fund redated the date of order	0	6	8
<i>Paid for draft order</i>			
Close copy (4d. per folio)			
Notice of appointment			
Attending settling order			
(The fee for this depends on circumstances, and the number of attendances before the Master before the order is finally settled.)			
*Attending settling blue print.....			
Attending passing order	0	6	8
<i>Paid stamp</i>	2	0	0
<i>Paid for office copy</i>			

* This is only allowed when there is a fund in Court.

	£	s.	d.
If there are Stocks in Court the following items will have to be added :—			
Attending bespeaking directions for transfer of each separate sum of Stock	0	6	8
Attending bespeaking each separate transfer ..	0	6	8
(If it is required to sell the Stock the Solicitor will instruct his Broker to obtain a power of attorney for that purpose and the Broker will deduct his charges.			
Charge all letters and correspondence in connection with instructing the Broker.)			
Attending Master to vacate bond	0	6	8
Attending Client with bond vacated	0	6	8
If a Receiver has been appointed and security given by recognizance, charge for a certificate discharging security :—			
Attending bespeaking certificate discharging Receiver's security	0	6	8
<i>Paid stamp thereon</i>	1	0	0
Attending at Master's office bespeaking office copy certificate discharging Receiver's security	0	6	8
<i>Paid</i>			
Attending at enrolment office with order and certificate and bespeaking vacation of recognizance	0	6	8
<i>Paid fee</i>			
Attending subsequently ascertaining recognizance was duly vacated	0	6	8
If there is a residue of cash remaining in Court after payment of the costs, charge the following items to enable Client to receive same :—			
Drawing request for power of attorney to enable residue of cash to be received out of Court	0	2	6
Attending bespeaking same	0	6	8
<i>Paid</i>	0	13	3

	£	s.	d.
Attending getting same executed	0	6	8
(If this is done through an agent, charge for letter to him and his charges for getting same executed.)			
Attending lodging power and afterwards to receive cheque.....	0	6	8
Fair copy order for Taxing Master....(4d. per folio)			
Drawing and fair copy costs(8d. per folio)			
Attending taxing(6s. 8d. for every 25 folios)			
<i>Paid for certificate and engrossment.....</i>	1	1	6
Attending filing and bespeaking office copy	0	6	8
<i>Paid.....</i>	0	1	6
Sittings fee.....(1l. 1s. agency, 15s. proper)			
Numerous letters, &c.			
(A higher fee for letters is allowed in agency matters.)			

INDEX.

NOTE.—The Index to Forms and Precedents is printed in *italic type*.

- ACCOUNT: *affidavit in lieu of, by Committee, form of*, 87—91.
— *by Receiver, form of*, 91, 92.
— *verifying*, 97.
allowance of, to be authenticated by seal, 216.
appointment to vouch, 96.
balance on, 170, 177.
Committee of estate to pass, 175.
costs of, are assessed, 96.
— *precedents of*, 229.
documents to be lodged with, for vouching, 96.
final, summons for, 136.
form of, by Committee, 93—96.
— *by Receiver*, 93—96.
furnished, when and how often, 87.
further, summons to dispense with the passing of, 135.
office copy of, 97.
refusal to lodge, 201.
small cases, 163.
to be passed on death or discharge of Committee or after
supersedeas, 179.
- ACCUMULATION of interest, *form of summons for*, 73.
- ACTION by Lunatic, 154.
against Lunatic, 154.
- ADMINISTRATION AND MANAGEMENT, 151.
- ADMISSION: *notice of, of patient to private house or asylum*, 106.
- ADVERTISEMENTS: Masters may issue, 181.
- AFFIDAVIT: cross-examination of persons making, 181.
by two or more deponents, 182.
Forms of—
— *account in lieu of, by Committee*, 87—91.
— *by Receiver*, 91, 92.
— *verifying Committee's or Receiver's*, 97.

AFFIDAVIT—continued.**Forms of—continued.**

bond, of due execution, 84.

conditional contract for sale in support of, 121.

examination of engrossment with draft, of, 132.

fitness, of Committee of estate, 75.

_____ of person, 75.

_____ of Receiver, 37.

kindred and fortune, of, 38—54.

*lease, in support of summons to confirm an agreement for a,
104.*

life, of, 105.

medical :

first medical, in support of petition, 60—63.

_____ summons under sub-s. (c), 28.

_____ under sub-s. (d), 30.

_____ under sub-s. (e), 31.

_____ under sub-s. (f), 32.

second medical affidavit, 33.

supersedes, in support of petition for, 143—145.

sale : in support of conditional contract for a, 121.

making out a case for a, 100.

reserves as to, on a, 125.

service, of, of petition, 64.

_____ of summons, 35.

sufficiency, of, of sureties, 85.

will, on lodging, of Lunatic in Court, 99.

_____ on obtaining out of Court, 100.

*wind-up estate, in support of summons to, on death of
Lunatic, 137.*

kindred and fortune, of, what same should show, 37.

office copies of, not always allowed as a matter of course, 58.

AGREEMENT : *Lease—affidavit in support of conditional, for a, 104.*

summons to confirm conditional, for a, 102.

Sale—affidavit in support of conditional, for a, 121.

summons to confirm conditional, for a, 121.

ALLOWANCE : *voluntary under power of attorney, 4.*

to relations, 160.

APPEAL : *heard, where, when, and how, 108.*

as to costs, 152.

no fee on setting down, 108.

APPEAL: *notice of*, 107.

persons to be served on an, 106.
 procedure on an, 108.
 room where notice of, lodged, 108.
 rules relating to, 106, 151.
 time within which to, 106.
 who may, 106.

APPENDIX A., containing Lunacy Rules, 1892...149.

APPENDIX B., *containing precedents of bills of costs*, 221.

ATTACHMENT, 195.

ATTEND: Masters to determine who is to, the proceedings, 164.

ATTENDANCE of Heir or Next-of-Kin may be disallowed, 164.

ATTORNEY: power of, 1—6. See "Power of Attorney."

ATTORNEY-GENERAL: necessary to serve, where prayer of petition for a traverse is granted, 119.

AUCTIONEER: *affidavit by, in support of conditional contract*, 121.

_____ *as to reserves*, 125.

instructions to, 126.

letter by, 122.

BALANCE: on Committee's or Receiver's accounts, 96, 177.

_____ rule as to, 176.

if retained by Committee, salary disallowed and interest charged, 177.

BANKRUPTCY, 161.

BILLS OF COSTS:

Forms of—

passing accounts, 229.

_____ *costs of Next-of-Kin*, 230.

payment out of Court and to vacate security on death of Lunatic, 232.

petition for inquiry, 224.

_____ *costs of Next-of-Kin*, 228.

petition for a supersedeas, 230.

summons under the 116th section of the Lunacy Act, 1890...
 221.

BIRTH: not necessary to prove strictly by certificate in the first instance, 38.

BOND: *affidavit of due execution of*, 84.

form of, 79.

bespoken, how and where, 81.

drawn up and engrossed, where, 78.

executed, what to be done with, when, 85.

putting in suit, 178, 201.

summons to vacate, after passing account, 136.

————— *without passing account*, 135.

BUSINESS: *summons for leave to carry on Lunatic's*, 24, 159, 174.

CERTIFICATE: *Clerk of the Peace, signed by*, 29.

completion of security, of, 86.

fund in Court, of, 90, 96.

Master's (sometimes called Master's Report) not now usual, 76.

of Medical Practitioner in support of Reception Order, 15.

as to personal interview (Reception Order), 14.

CHANCERY VISITORS. See "Visitors, Chancery."

CHARGING ORDER, 173.

CHOSE IN ACTION: *form of summons for vesting order of*, 114, 115.

vesting order as to, 109.

CHRISTMAS DAY: *when not to be reckoned in computation of time*, 150.

CLAIM: *summons for leave to compromise*, 102.

CLERICAL MISTAKES and accidental omissions, 173.

COMMISSIONERS IN LUNACY: *Report of*, 66.

COMMITTEE: *account of*, 93—96.

————— *affidavit in lieu of, by*, 87—91.

accounts to be passed on death or discharge of, 179.

account, must, for money received, 87, 192.

allowance to, 174.

appointment of, takes effect on security being given, 78, 87, 191.

balances on accounts to be paid into Court and invested, 176.

balances, if retained by, salary disallowed and interest charged, 177.

- COMMITTEE: *consent of, of estate, to act, 73.*
 of person, to act, 74.
 where L. resides with him, 74.
 discharge of, 175.
 execution of deeds by, 128.
 fitness of, of estate, affidavit of, 75.
 ditto, of person, affidavit of, 75.
 new, summons to appoint on death of former one, 103.
 new, when should be appointed, 103, 178.
 payments by, 192.
 register of, s, to be kept, 175.
 security, cannot act until completed, 78, 87.
 form of instructions for, by, 83.
- COMMITTEE OF PERSON: may be summoned to attend Visitors, 188.
 to be informed by Master as to allowance
 for maintenance, 187.
 to report to Visitors as to expenditure, 187.
 to report to Visitors as to health of
 Lunatic, 187.
- COMPLETION: *certificate of, of security, 86.*
- COMPROMISE: *summons to, claim, 101, 102.*
- CONDITIONAL CONTRACT *for sale by private treaty, 120.*
 affidavit in support of, 121.
 summons to confirm, 121.
 evidence in support of,
 120.
- CONDITIONS OF SALE: *affidavit as to reserves, 125.*
 documents to be lodged at Lun. Office, 122.
 forms of, 123.
 how settled, 122.
 instructions to auctioneer, 126.
 letter from auctioneer, 122.
 lotting paper, 126.
 main points to be borne in mind in drafting,
 125.
 special clauses in, 123.
- CONDUCT MONEY payable to witnesses, 68.
- CONSENT *of Committee of estate to act, 73.*
 of person to act, 74.
 where Lunatic resides with him, 74.
 new trustee to act, Rule as to, 183.
 to act as Trustee, 118, 183, 211.

CONSOLIDATE: power to, different matters, 165.

CONTINGENT RIGHTS: order to release, 108.

CONTINUATION ORDERS, 8.

form of, 8.

how obtained, 8.

when necessary, 8.

CONTRACT by Lunatic during lucid interval valid, 2.

by agent of Lunatic, effect of insanity of principal, 2.

not necessarily affected by a delusion, 3.

CONVEYANCE: *form of*, by Lunatic Vendor, 131.

CONVEYANCING ACT: 1881, s. 47, as to Powers of Attorney, 2.

1882, s. 8, ditto, ditto, 2.

1882, s. 9, ditto, ditto, 2, 3.

CONVEYANCING FORMS, 120—134. See also "Mortgage," "Conveyance," &c.

COPIES: charge for, by Lunacy Stationer, 58.

ditto, by Solicitor, 203.

costs of unnecessary, to be disallowed, 204.

default of solicitor to furnish, 204.

folios of, to be numbered, 203.

request for, 202.

time for delivery of, 202.

to be made in Master's Office, 201.

to be on convenient paper and legible, 203.

COSTS, 188, 191.

account, of, assessed by Official vouching same, 96.

forms of bills of. See "Bills of Costs."

procedure on taxation of, 190.

rules as to, 188—191.

same allowed as in Chancery Division, 189.

summons for taxation of, 24, 25, 27, 71, 73, 135, 136.

to be taxed by Masters, 190.

COUNSEL: usual to brief, on inquiry before a Jury, 69.

———— on application for a vesting order, 109.

CREDITORS, 160.

secured, 162.

CRIMINAL LUNATIC: *medical affidavit as to*, 32.

notice to be endorsed on summons served on, 34.

sub-section (f) of the 116th section of the Lunacy Act, 1890, as to, 19, 20.

- CROSS-EXAMINED:** persons making affidavits may be, 181.
- CUSTODY** of estate or person may be continued to surviving Committee, 173.
- DAYS:** number of, how computed, 150.
- DEATH:** *new Committee or Receiver, on, of old one, summons to appoint*, 103.
on, of Lunatic, funds in Court, how to be dealt with, 166.
on, of Lunatic, Master may open Will, 166.
proceedings on, of Lunatic, 135, 138.
strict proof of, not necessary in certain cases, 38.
- DEBTS:** disputed, 161.
undisputed, 161.
inquiries as to, 160.
summons providing for payment of, 24, 72.
- DEEDS:** powers to Masters to receive, 165.
- DELAY:** powers of Masters in case of undue, 214.
- DELUSION** does not necessarily affect contract by Lunatic, 3.
- DEMAND** *for a Jury, form of*, 65.
————— how to be made, 158.
- DEPONENT:** description and abode of, to be stated, 182.
where more than one, to affidavit, 182.
- DETENTION, LAWFUL:** *medical affidavit as to*, 28, 29.
notice to be endorsed on summons served in the case of, 34.
sub-section (c) of the 116th section of the Lunacy Act, 1890, as to, 19, 20.
- DETERMINE:** summons to be issued to, proceedings, where Patient under 116th section of Lunacy Act, 1890, recovers his sanity, 146.
form of summons to, proceedings, 146, 147.
- DIRECTIONS:** *form of summons for, after inquisition*, 70—73.
notes on summons for, 158.
- DISCOVERY**, 202.
- DISEASE OR AGE:** mental infirmity arising from,
medical affidavit as to, 30.
notice to be endorsed on summons served on person suffering from, 34.
sub-section (d) of 116th section of Lunacy Act, 1890...19, 20.

DOCTOR'S AFFIDAVITS. See "Medical Affidavits."

DOCUMENTS : not necessary to prove strictly in certain cases, 38.
on vouching accounts or affidavits in lieu of accounts,
what, to be lodged, 96.

DRAFT DOCUMENT : *affidavit of examination of, with engrossment,*
132.

DUE EXECUTION of *bond, affidavit of, 84.*

ESTATE : inquiries as to dealings with Lunatic's, before inquisition,
162.

EVIDENCE, 163, 165.

may be taken orally or by affidavit, 181.

power to use, filed in one matter in another matter, 165.

what necessary in support of petition for an inquiry, 22.

_____ a supersedeas, 139.

_____ a traverse, 119.

_____ summons for vesting order, 116,
117.

_____ to proceed after inquisition, 22, 73—76.

_____ under 116th section of
Lun. Act, 1890...21.

EXAMINATION of *engrossment with draft, form of affidavit of, 132.*

EXECUTION, 160.

affidavit of due, of bond, 84.

of deeds by Committee or Receiver, 128.

writs of, to issue out of Central Office, 195.

EX PARTE PROCEEDINGS : when they may be re-opened, 184.

EXPEDITION : comparative, of proceedings by petition or by summons, 20.

EXPENSE : comparative, of proceedings by petition or by summons,
20.

FAMILY AND FORTUNE : *affidavit of, 38—54.*

Solicitor expected to answer questions as
to, on inquiry, 68.

FEES AND PERCENTAGES, 195—201. See also *Percentage.*

small cases, 163.

order as to, under the Lunacy Act, 1890...
212.

FITNESS, *affidavit of, of proposed Committee of estate, 75.*

_____ *person, 75.*

_____ *Receiver, 37.*

- FORMAL HEADINGS:** *after order made on petition for an inquiry*, 69, 98.
 *after order made on summons under 116th section of the Lunacy Act, 1890...*57.
 on application by petition for an inquiry, 59.
 ————— *for a supersedeas*, 140.
 ————— *by summons for vesting order*, 110.
 ————— *under sub-sections (c), (e), (f) of 116th section of the Lunacy Act, 1890...*23, 98.
 ————— *under sub-section (d)*, 23, 98.
- FORMS OF AFFIDAVITS.** See "Affidavits."
 COSTS. See "Costs."
 NOTICE. See "Notice."
 NOTICE OF APPEAL. See "Appeal."
 PETITION. See "Petition."
 SUMMONS. See "Summons."
- FUND IN COURT:** *certificate of*, 90, 96.
 investment of, summons for, 27.
 notice of dealing with, 173.
 sale of, summons for, 135.
 transfer of, summons for, 25, 26, 71, 73, 136, 137.
- FURNITURE:** *inventory of*, 192.
- FURTHER CONSIDERED:** *matters may be, from time to time*, 184.
- GENERAL USE:** *some forms in*, 98.
- GOOD FRIDAY:** *when not to be reckoned in computation of time*, 150.
- GUARDIAN OF INFANT:** *power to appoint*, 164.
- HEADINGS, FORMAL.** See "Formal Headings."
- HEIR:** *inquiry as to, may be dispensed with*, 163.
 no inquiries as to, if fees not payable, 163.
 power to disallow attendance of, 164.
 service on, when necessary, 164.
- HOUSE OF LORDS:** *appeal to*, 108.
- INCOME:** *summons containing scheme for application of*, 26, 70.
 ———— *to invest and accumulate surplus*, 73.
 ———— *to receive and apply*, 24—28, 70—72.

INFANT: guardian of, power to appoint, 164.

INQUIRIES as to dealings with Lunatic's estate before inquisition, 162.

as to debts, 160.

Master may defer and limit, and dispense with, as to Next-of-Kin and Heir, 163.

as to Next-of-Kin and Heir, not to be made if fees not payable, 163.

summons for, after inquisition found, 70—73.

———— rule as to, 158.

INQUIRY: applications for order for, to be by petition, 153.

before a Master alone, 67—69.

before a Master and a Jury, 69.

Counsel, when usual to brief, on an, 69.

evidence necessary in support of a petition for an, 22.

order for an, 67.

order for an, stamp on, 67.

payment to Witnesses on an, 68.

petition for an, 59, 60, 207.

place where, usually held, 67, 69.

practice on, with a Jury, 69.

practice on, without a Jury, 68.

Solicitor's duty on an, 68.

Witnesses should be served with subpoena on an, 67, 68.

INQUISITION: *petition for, form of*, 59, 60.

mode of application, 153.

petition, for, to be brought before Judge, 153.

proceedings after, 70—77, 158—167.

when Masters may direct petition for, to be presented, 214.

INVENTORY, 192.

form of undertaking, 193.

ISSUE, 158.

JUDGE IN LUNACY: what matters to be brought before, out of Court, 77, 156.

when minutes of order are to be prepared for, 155.

JURISDICTION IN LUNACY: how exerciseable, 108.

Lunatic out of, 162.

- JURY** : *demand for, form of*, 65, 208.
 demand for, how to be made, 158.
 inquiry in certain cases must take place with a, 66, 158.
 _____ *will take place without a*, 66, 158.
 number of, 69.
 number of, who must agree on verdict, 69.
 obtaining and summoning a, 69.
- KINDRED AND FORTUNE** : *affidavit of*, 38—54.
 _____ *what it should show*, 37.
 _____ *where the title is very complicated*, 38.
- LANDS** : *vesting order as to*, 108.
- LANDS CLAUSES ACT** : *applications under, how to be made*, 154.
- LEASE** : *allowance of, to be authenticated by seal*, 217.
 conditional agreement for a, affidavit in support of, 104.
 _____ *summons to confirm*, 101.
 form of, by Lunatic, 129.
- LETTERS OF ADMINISTRATION** : *affidavit verifying*, 137, 138.
- LIFE** : *form of affidavit of*, 105.
- LODGMENT IN COURT** : *summons for*, 25, 26, 70—73.
 of securities, power to authorise, 174.
- LORD CHANCELLOR**, 108.
- LORDS JUSTICES** : *on petition for an inquiry*, 67.
 on appeals, 108.
 on summons for a vesting order, 109.
- LOTTERY PAPER** : *form of*, 126.
- LUNACY ACT, 1890** : *defects before the passing of*, 18.
 Sect. 10—*Justices appointed under, to exercise jurisdiction*, 29.
 Sect. 99—as to powers of Person executing inquiry with a
 Jury, 69.
 Sects. 90—100—*state cases in which inquisition must be held
 with a Jury*, 66.
 Sect. 100—as to report by Commissioners in Lunacy to Lord
 Chancellor, 66.
 Sect. 108, sub-sect. 1—as to jurisdiction in Lunacy, 108.
 Sect. 116—*under which proceedings are originated by summons*,
 18, 19.
 Sect. 116, sub-sects. (c), (d), (e), (f)—*explanation of*, 20.
 Sects. 133—139—as to vesting orders, 108.

LUNACY ACT, 1891 : Sect. 27—as to jurisdiction of Masters, 77.

LUNACY RULES. See “Appendix A.,” 149.

The following Rules are referred to in the text, viz. :—

No. 11—as to appeals, 106.

Nos. 16, 19 of 1892 Rules and Rule dated 29th October, 1900...22.

No. 18—providing how petitions are to be brought before Judge, 76, 77.

No. 23—as to matters which may be brought before Judge out of Court, &c., 77.

No. 24—as to service, 77.

No. 45—as to testamentary papers, 99.

Nos. 57, 58—as to vesting orders, 109.

MAINTENANCE, 159, 161.

proceedings for, how originated, 18.

summons for, 23—28, 70—73.

temporary provision for, 169.

MANAGEMENT : proceedings for, how originated, 18.

summons for, 23—28, 70—73.

MASTER : appeal from orders of, 106, 151.

attendance of, in Court, 152.

certificate [or report] by, not now usual, 76.

may act jointly and severally, 152.

powers of attorney, can inquire into, 6.

powers of, when sitting with a Jury, 69.

practice adopted by, on inquiry, 68, 69.

_____ if *summons* originating proceedings is opposed, 57, 58.

to communicate with and attend Judge, 152.

to make orders as to administration and management, 151.

what order, may make, on *summons*, 160.

MEDICAL AFFIDAVIT :

first in support of petition, 60—63.

_____ *summons under sub-sect. (c)*, 28, 29.

_____ *(d)*, 30.

_____ *(e)*, 31.

_____ *(f)*, 32.

second medical affidavit, 33, 61—63.

supersedes, in support of petition for a, 143—145.

MEDICAL EVIDENCE : on inquiry, 68.

MEDICAL WITNESSES : fees to, 68.

- MENTAL INFIRMITY** : arising from disease or age, *medical affidavit as to*, 30.
notice endorsed on summons, 34.
 sub-section (d) of 116th section of Lunacy Act, 1890...19, 20.
- MISSTATEMENT** in petition, 153.
 in certificate of medical practitioner, 16.
- MONTH** means calendar month, 150.
- MORTGAGE** : *form of, by Lunatic raising money for payment of debts*, 126, 127.
 order to raise money by, 194.
- NECESSARIES**, 160.
- NEW COMMITTEE** : when should, be appointed, 103.
- NEXT-OF-KIN** : inquiry as to, may be dispensed with, 163.
 no inquiries as to, if fees not payable, 163.
 notice of application to, 168.
 power to disallow attendance of, 164.
 service on, when necessary, 164.
- NOTICE** *demanding a Jury*, 65.
 effect of, of objection, 57.
 form of,
 of admission to private house or asylum, 106.
 of appeal, 107.
 endorsed on petition, 64.
 endorsed on summons, 34.
 of objection under sub-sections (c), (e) and (f) of 116th section of Lunacy Act, 1890...54.
 of objection under sub-section (d) of 116th section, 55.
 of desire for personal interview (Reception Order), 15.
 of right to _____ 15.
 of report of Commissioners, 208.
- NOTICE** of applications under 116th section of Lunacy Act, 1890... 167.
 of dealing with funds in Court, 173.
 of petition for inquisition, 157.
 of report of Commissioners, 157.
 power to dispense with, 156.
 seven days required before order made, 157.
 to Next-of-Kin, 168.
- NUMBERS** to be denoted by figures, 172.

OATHS: Masters may administer, 181.

OBJECTION: *form of notice of, to proceedings under sub-sections (c), (e) and (f) of 116th section of Lunacy Act, 1890...*
54, 168.

power to dispense with, 168.

form of notice of, to proceedings under sub-section (d) of the 116th section, 55.

OFFICE COPY: document taken by solicitor to be produced by him,
203.

costs of, 58.

OFFICIAL SEAL to be kept by Masters, 171.

OFFICIAL SOLICITOR: costs of, 215.

ORDER appointing Committee takes effect on security being given,
191.

blue print of, 56.

draft of, 56.

drawn up, how, 56.

enforcement of, 195.

engrossment of, 56.

inquiry, for, 67.

inquisition, for, not to be made until seven days after
notice, 157.

minutes of, for Judge, when to be prepared by Masters, 155.

office copy of, 57.

on petition for a supersedeas, 146.

on summons for a vesting order, 109.

printed, 172.

stamp on, for an inquiry, 67, 197.

——— under 116th section of Lunacy Act, 1890...56,
197.

——— for a supersedeas, 197.

——— rule as to, 197.

to be authenticated by seal, 216.

to be entered by Masters, 171.

what, Masters may make on summons, 160.

white print of, 56.

PAUPER: maintenance of, 161.

PAYMASTER-GENERAL's certificate of fund in Court, 90, 96.
transcript of account, 90, 96.

- PAYMENT INTO COURT:** security reduced by, 56.
summons for, 26, 70—73.
- PEDIGREE:** strict proof of, may be dispensed with, 38, 163.
- PENDING proceedings**, 149.
- PENSIONS**, 161.
- PERCENTAGE AND FEES:** amount of, to be certified by Masters, 199.
 Lunacy percentage account, 199.
 may be certified to be paid out of dividends, 199.
 may sometimes be paid for less than a year, 201.
 persons in default in paying, to be certified, 201.
 rules as to, 195—201.
 to be paid by stamps, 200.
 transfer from Lunacy percentage account to cash account, 200.
 when dividends are to be carried to Lunacy percentage account, 200.
- PETITION:** comparative advantage of, or summons, 20.
 costs of, when disallowed, 155.
 evidence necessary in support of, for an inquisition, 22.
form of, for an inquiry, 59, 60.
for a reception order, 9.
for a supersedeas, 140—142.
 for a traverse, 118.
notice endorsed on, form of, 64.
 order on, 67.
 presented, how, 67.
 ——— where, 67.
service of, affidavit of, 64, 65.
 what, s, to be brought before Judge, 77.
- PLACE** where inquiry held, 67, 69.
- POWER OF ATTORNEY:** Conveyancing Act, 1881, s. 47, as to, 2.
 ——— 1882, s. 8, as to, 2.
 ——— 1882, s. 9, as to, 2, 3.
form of, 5.
by Lunatic donor, 131.
 generally, but temporary makeshift, 4.
 Masters in Lunacy, can inquire into, 6.

POWER OF ATTORNEY : not satisfactory where any restraint necessary, 6.

only safe course to adopt when taking, 4.

voluntary allowance under, 4.

when can be used, 1—6.

PRACTICE if Patient demands a Jury, 69.

if Patient objects *in toto* to proceedings, 57, 58.

if Patient objects partially to proceedings, 57, 58.

PRECEDENTS OF AFFIDAVITS. See "Affidavits."

COSTS. See "Costs."

NOTICE. See "Notice."

NOTICE OF APPEAL. See "Appeal."

PETITION. See "Petition."

SUMMONS. See "Summons."

PRECEPT : where a Jury, 69.

where no Jury, 67.

PROBATE, 151.

PROCEEDINGS *by petition for an inquiry*, 59—69.

———— *a supersedeas*, 138—146.

———— *a traverse*, 118, 119.

by summons for a vesting order, 108—118.

———— *under the 116th section of the Lunacy Act, 1890*...23—58.

———— *to determine matter on Patient recovering sanity*, 146, 147.

———— *to wind up estate on death of Lunatic*, 135—138.

PROPERTY : where not properly protected, 66.

subject to a mortgage, vesting order as to, 109, 170.

RAILWAY FARES to be paid to witnesses on an inquiry, 68.

RECEIVER : *accounts of*, 93.

affidavit in lieu of accounts by, 91, 92.

allowance to, 180.

appointment of, summons for, 23—28.

appointment of new, on death of old one, summons for, 103.

appointment of new, rule as to, 178.

- RECEIVER :** execution of a deed by, 128.
fitness of, affidavit of, 37.
 powers of, 21.
 provisions as to Committees to extend to, 180.
 register of, s, to be kept, 175.
 salary, 180.
 security by, 78.
 security, cannot act, until completed, 78.
 ——— *form of instructions for, by, 82.*
undertaking by, 36, 215.
- RECEPTION ORDER :** *signed by Committee of person, 105.*
 Justice of the Peace, 29.
- RECEPTION ORDERS :** age of petitioner, 7.
 application for, considered in private, 7.
 by whom made, 7.
 course which may be adopted on hearing of
 petition for, 7.
 duration of, 8.
 evidence in support of petition for, 7.
Form of, 12.
certificate of medical practitioner, 15.
 ——— *as to personal interview, 14.*
notice of desire to have personal inter-
view, 15.
notice of right to have personal inter-
view, 15.
petition for, 9.
statement of particulars accompanying
petition for, 11.
urgency order for reception, 13.
 how obtained, 7.
 notice of application for, to be served, 7.
 obligations cast on doctors, 8.
 reasons to be stated if application dismissed, 8.
 relationship of petitioner to Patient, 7.
 undertaking to be given by petitioner, 7.
 when petitioner must have seen Patient, 7.
 who petitioner should be, 7.
- RECEPTION, URGENCY AND CONTINUATION ORDERS, 7—17.**
- RECOGNIZANCES :** Masters may take, 181.
- RECONVEYANCE** *by Lunatic, form of, 130.*
to Lunatic, ditto, 129.

REGISTER of Committees and Receivers to be kept, 175.

RESIDENCE : change of, by Lunatic, 217.

RULES, LUNACY. See "Appendix A," 149.

SALE : *affidavit making out a case for a*, 100.

affidavit in support of conditional contract for a, 121.

orders for a, 194.

summons to confirm conditional contract for a, 121.

summons for, of stock in Court, 135.

SEAL sufficient authentication of official documents, 216.

SECURITY : amount of, how fixed, 56, 78.

————— how reduced, 56.

certificate of completion of, 86.

consists usually of bond and two sureties, 78.

discharge of, 216.

instructions for, 82, 83.

lodgment of, 165.

money or stock may be brought into Court as, 174.

to be approved by Masters, 174.

vacate, summons to, 135, 136.

when fresh, given, previous security discharged, 175.

SERVICE, 164.

affidavit of, of petition, 64.

————— *of summons*, 35.

power to order or dispense with, 156.

SETTLED ESTATES ACTS : application under, how to be made, 154.

SETTLED LAND ACTS : applications under, how to be made, 154.

SETTLING ORDER : practice on, 56.

SHERIFF : precept addressed to, when a Jury, 69.

SOLICITOR : duty of, on inquiry, 68.

precept addressed to, when no Jury, 67.

STAMP : impressed, s, to be used, 198.

on certificate of completion of security, 85, 197.

on order for an inquiry, 67, 197.

————— under 116th section of Lunacy Act, 1890...56, 197.

————— for a supersedeas, 146, 197.

rules as to, s, 197, 198, 212.

to be cancelled, 198.

STATIONERS, LUNACY, 58, 84.

charges, 201, 203.

STOCK or money may be brought into Court as security, 56, 174.

proper officers to transfer, 193.

summons for sale of, to pay costs, 135.

———— *transfer of, into Court*, 25, 26, 70—73.

———— *transfer of, out of Court*, 136, 137.

———— *vesting order of*, 114.

vesting order as to, 108.

SUBPŒNAS : *form of*, 67.

no charge for, 67.

SUE : *summons for leave to*, 101.

SUMMONS : comparative advantages of, or petition, 20.

evidence necessary in support of, under 116th section
of Lunacy Act, 1890...21.

failure to attend on return of, 184.

Form of—

claim, for leave to compromise, 101.

committees, to appoint, 70—73.

Committee (or Receiver), new, to appoint on death of old ones,
103.

debts, for payment of, 72.

determine proceedings on recovery of Patient, 146, 147.

directions or inquiries for, after inquisition, 70—73.

funds in Court, for lodgment of, 25, 26, 70—73.

lease, to confirm conditional contract for a, 102.

maintenance, providing scheme for, 26, 70.

*originating proceedings under the 116th section of the Lunacy
Act, 1890...23—28.*

payment into Court, for, 26, 70—73.

real and leasehold estates, for leave to manage, 71.

sale, to confirm conditional contract for a, 121.

sale of stock to pay costs, for, 135.

sue, for leave to, 102.

taxation of costs, for, 24, 25, 27, 71, 73, 135, 136.

transfer of funds into Court, for, 25, 26, 71, 73.

transfer of funds out of Court, for, 136, 137.

wind up estate on death of Lunatic, to, 135—137.

further time for service of, may be allowed, 183.

how prepared and issued, 183.

Master may dispense with, or insist on, 184.

notice endorsed on, 34.

only one to be issued on the same application, 156.

service and return of, 183.

SUNDAY: time expiring on, 150.

when not to be reckoned in computation of time, 150.

SUPERSEDEAS: after order for, Committee has to pass accounts, 179.

application for a, to be by petition, 138, 219.

documents recited in petition for, how obtained, 139.

documents, what, are recited in petition for, 138, 139.

medical affidavits in support of petition for a, 143—145.

notice to Committee of application is necessary, 139.

order for, where drawn up, 146.

partial order for, when made, 146.

petition for, form of, 140—142.

practice in lieu of application for a, where proceedings commenced under 116th section of Lunacy Act, 1890, and patient recovers his sanity, 146, 147.

prayer of petition for, what it asks, 139.

room where petition for, is presented, 138.

service of petition for, on Committee, is not necessary, 139.

stamp on order for, 107, 146.

SURETIES: Committee to satisfy Master that his, are living and solvent, 176.

form of affidavit of due execution by, 84.

_____ *sufficiency*, 85.

SURVIVING COMMITTEE: custody of estate or person in the case of a, 173.

TAXATION OF COSTS: *form of summons for*, 24, 25, 27, 71, 73, 135, 136.

procedure on, 190.

rules as to, 188—191.

TESTAMENTARY PAPERS [and see "Will"], 99.

TIME: power to enlarge or abridge, 150.

within which to appeal, 106.

_____ to demand a Jury, 158.

_____ to apply for a traverse, 118.

VENDOR'S LIEN, 161.

VESTING ORDER: affidavit in support of summons for, what should show and contain, 116, 117.
 application for a, to be by summons, 108, 219.
 cannot be made under sub-section (d) of 116th section of Lunacy Act, 1890...110, 220.
Chancery—principle as to when application to be made in, as well as in Lunacy, 110, 220.
consent to act as trustee, 118.
draft submitted to Lords Justices, 109.
drawn up and completed, where, 109.
evidence necessary on application for, 116—118.
formal title to summons for, 110.
 ———— *when in Chancery as well as in Lunacy*, 110, 220.
land or other rights, 108.
necessary, in what cases, 108, 109.
notes on, 170, 171, 219, 220.
obtained, how, 108.
persons to be served with summons for, 115, 116.
summons for, forms, 111—115.
proof of unsoundness of mind on application for a, 117, 220.
room in which summons for, issued, 109.
rules relating to, 109, 170, 219.
service on beneficiaries, 116.
 ———— *Lunatic Trustee*, 115, 116.
 ———— *Mortgagor*, 116.
Trustee, consent by, to act, 118, 183, 211.
who can make, 219.

VISIT: Masters may, persons to whom any application relates, 168.

VISITORS, CHANCERY, 185—188, 216.

VIVÂ VOCE: evidence, when taken, 68, 69, 181.

VOLUNTARY ALLOWANCE under Power of Attorney, 4.

PAYMENTS, ditto, ditto, 4.

VOUCHERS to be produced on accounts or affidavits in lieu of accounts, 96.

- WILL:** *affidavit on lodging, in Court*, 99.
 obtaining, out of Court, 100.
 on death of Lunatic, Masters may open, 166.
 rule, as to lodging, in Court, 99, 166.
- WIND UP:** *affidavit in support of summons to, estate on death of Lunatic*, 137.
 summons to, estate, on death of Lunatic, 135, 136.
- WITNESSES:** conduct money to be paid to, 68.
 bond, number of, necessary to execution of, 84.
 subpoenas to be served on, 67, 68.
- WRIT:** *form of, issued at instance of Lunatic Plaintiff*, 133.
 practice on issuing, 134.

Ex E.H.D.
10/3/05

LONDON:

PRINTED BY O. F. BOWORTH, GREAT NEW STREET, E.C.

